MONTANA
DEPARTMENT OF COMMERCE
Local Government Assistance Division
Local Government Services-Systems Program
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April 9, 1996

STATE DOCUMENTS COLLECTION

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MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

Mr. Harold Chambers
Montana State Library
1515 E. Sixth Avenue
PO Box 201800
Helena, MT 59620-1800

Mr. Chambers:

In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find a copy of Butte-Silver Bow's decision regarding the 1994 study commission.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Program Specialist

Enclosure

BUTTE-SILVER BOW
LOCAL GOVERNMENT STUDY COMMISSION
ROOM 101, COURTHOUSE BUILDING
155 WEST GRANITE STREET
BUTTE, MONTANA 59701
(406) 723-8262, EXT. 236
FAX: (406) 723-7448

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LOCAL GOVT SERVICES

March 19, 1996

FINAL REPORT

Fellow Citizens:

In June of 1994, you, the citizens of Butte-Silver Bow City-County, voted to review your form of local government. In November 1994, we, a nine-member study commission were elected and began the process of reviewing the existing form and functions of the Butte-Silver Bow Government. Our ultimate purpose was to submit to the voters our proposals to modify the existing Butte-Silver Bow Charter. These proposals will be part of the June 4, 1996 primary ballot, and it will be the decision of the voters as to whether or not to accept these proposals and to modify the Charter.

At the onset of our review, we were provided with an overview of the current government by personnel from each department. Review of the numerous departments convinced us that the best way to approach this project was to ask local government to talk with us and explain its numerous functions. The purpose was to allow all of these individuals the opportunity to present an overview of their department's functions and responsibilities. We requested that the departments advise us as to their thoughts and recommendations to improve the service of the local government. We also conducted two formal public hearings where comments from our citizens were received.

We discovered that in the twenty year period since the citizens of the former City of Butte and Silver Bow County voted to consolidate their governments, our community has developed, changed and grown. During this period, the wisdom of the people in creating Butte-Silver Bow has been demonstrated again and again. After sixteen months of reviewing our form of government, we have concluded that the existing Consolidated City-County Government remains the best form for this community, and a majority of the Study Commission have also concluded that the City-County Government could be operated more efficiently with fewer offices.

Based on our review, we have proposed that the voters decide whether the offices of Assessor, Auditor and Public Administrator be eliminated and the duties of the Superintendent of Schools be handled on a part-time basis or absorbed into an existing office.

Further, within the twenty years since consolidation, changes at both the state and local level have resulted in portions of the existing Charter becoming obsolete and, in some cases, at odds with current State Laws. Also, the existing Charter still contains transitional language left over from the initial consolidation in 1976. For these reasons, we are proposing the adoption of amendments to the Charter not only to insure compliance with state law and to eliminate provisions no longer needed, but also to provide a means for addressing the future challenges our community will face.

Copies of the Final Report are available at the Butte-Silver Bow Public Library, 226 Broadway Street, Montana Tech Library, 1300 West Park Street and the Clerk and Recorder's Office, Room 208, Courthouse Building, 155 West Granite Street, Butte, Montana. For further information contact Bob Farren, Study Commission Coordinator, Room 401, Courthouse Building, (406) 723-8262, ext. 218 or Patti Barkell, Study Commission Secretary, Room 101, Courthouse Building, (406) 723-8262, ext. 236.

BUTTE-SILVER BOW LOCAL
GOVERNMENT STUDY COMMISSION

JAMES F. MICHELOTTI, CHAIRMAN

TED BURY, SR.

RON CASS

PHYLLIS P. EGAN

JIM FABATZ

JACK HANLEY

WILLIAM M. O'LEARY

JEAN RUPPERT

JOHN SVALDI

CERTIFICATE

ESTABLISHING THE EXISTING PLAN OF GOVERNMENT FOR THE CONSOLIDATED GOVERNMENT OF BUTTE-SILVER BOW, MONTANA

CHARTER

PREAMBLE

WE, THE PEOPLE of the City of Butte and the County of Silver Bow, State of Montana, in accordance with Article XI, Section 5 of the Constitution and the laws of the State of Montana, recognizing the unique characteristics of our community and in order to improve the quality of life for these and future generations, do adopt this Charter of Butte-Silver Bow, State of Montana, which will hereby establish a local government combining the existing units of government of the City of Butte and the County of Silver Bow.

ARTICLE I

NAME AND BOUNDARIES

SECTION 1.01 - NAME

The City of Butte and the County of Silver Bow, State of Montana, will be known as Butte-Silver Bow, State of Montana, a body corporate and politic, under the Montana Constitution.

SECTION 1.02 - JURISDICTION

The new unit of local government shall exercise the powers established by law for the government of the County of Silver Bow as a political subdivision of the State of Montana, throughout the territorial limits of the County of Silver Bow as presently established.

The new unit of local government shall exercise the self-government powers permitted by law throughout the territorial limits of the County of Silver Bow; however, nothing contained within this article shall be construed to authorize the local government of Butte-Silver Bow to enact any laws or regulations for the City of Walkerville on matters covered by the powers granted to said municipality by law.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01 - POWERS OF THE GOVERNMENT

Butte-Silver Bow shall have self-government powers, which are all powers not prohibited by the Constitution of the State of Montana, the laws of the state or this Charter. These powers include, but are not limited to, the power now exercised by cities, towns and counties by law, except as otherwise provided by this Charter; to contract; to use a corporate seal; to sue and be sued; to acquire property within the jurisdiction of the local government of Butte-Silver Bow for any purpose in fee simple or lesser interest or estate; to purchase, receive, lease or lease with privilege to purchase, manage and control such property as the interest of the local government of Butte-Silver Bow may require; to levy and collect such taxes authorized by this Charter and law.

SECTION 2.02 - LIMITATIONS

Limitations on self-government powers shall be as provided by applicable sections of state law which provide in part that a charter form of local government is prohibited from establishing or exercising:

(a) a sales or income tax, unless that power is specifically delegated to local government by the laws of Montana. In addition, the local government of Butte-Silver Bow shall not authorize a sales or income tax until it is approved by a vote of the people; however, this section shall not be construed to limit the authority of the local government of Butte-Silver Bow to levy any other tax or establish the rate of any other tax;

(b) any power that applies to or affects any private or civil relationship;

(c) any power that applies to or affects the provisions of Title 41 (labor), Chapter 16 of Title 59 (collective bargaining for public employees), Title 87 (unemployment compensation), or Title 92 (Workers' Compensation) except that subject to the provisions of those titles it may exercise any power of a public employer with regard to its employees. Also, the minimum wages, insurance benefits and longevity for confirmed or tenured employees of local government shall not be lower than state requirements.

(d) any power that establishes a rate or price otherwise determined by a state agency;

(e) any power that applies to or affects the right to keep or bear arms.

SECTION 2.03

The new local government unit shall not in the exercise of its self-government powers enact any

ordinance, resolution or regulation pertaining to the local government of the City of Walkerville, Montana, which is a municipal corporation organized under the laws of Montana and which shall continue to exercise such powers as are granted to it as a municipal corporation and city by state law; provided, however, the now unit of local government may enter into agreements with the City of Walkerville to provide local services on terms as may be mutually agreeable.

SECTION 2.04

The new unit of local government when exercising those powers as a county and therefore a political subdivision of the State of Montana, may enact those ordinances, resolutions or regulations as are permitted by state law which shall be applicable to residents of the City of Walkerville insofar as they are also residents of the area presently known as the County of Silver Bow, State of Montana.

SECTION 2.05 - CHARTER SUPREMACY

As provided by Article XI, Section 5 of the Constitution of the State of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

SECTION 2.06 - INTERPRETATION OF POWERS

The powers and authority of this self-government unit shall be liberally construed. Every reasonable doubt as to the existence of this government's power shall be resolved in favor of the existence of that power or authority.

SECTION 2.07 - CONTINUANCE

All ordinances, resolutions, by-laws, rules and regulations, or portions thereof, in force on the effective date of this Charter and not inconsistent or in conflict herewith, shall be continued in full force and effect within the jurisdictional boundaries for which they were written until amended, repealed, superseded or expired by their own terms.

SECTION 2.08 - OATH OF OFFICE

Before entering upon the duties of office, all elected officials shall take and subscribe the oath of office as prescribed in Article III, Section 3 of the Constitution of the State of Montana.

SECTION 2.09 - ELECTION OF LOCAL GOVERNMENT OFFICERS

All local government elected officers shall be nominated and elected on a nonpartisan basis. (Added by voters on Nov. 4, 1986).

ARTICLE III

LEGISLATIVE POWERS

SECTION 3.01 - POWERS AND STRUCTURE

The legislative power of the new unit of local government is vested in a Council of Commissioners and may be exercised only by ordinance or resolution.

SECTION 3.02 - ORGANIZATION

Except as otherwise provided by this Charter, the composition, qualification, elections, terms, vacancies, forfeiture, removal and compensation of the members of the Council of Commissioners shall be as specified by the following provisions:

(a) COMPOSITION

There shall be a Council of Commissioners of Butte-Silver Bow composed of twelve (12) members, at least six (6) of whom shall be elected every two (2) years.

(b) QUALIFICATION

A candidate for the Council of Commissioners shall be a qualified elector and resident of Butte-Silver Bow for at least one (1) year preceding the date the candidate files a nominating petition and must be a resident of the district for six (6) months. A member of the Council of Commissioners must maintain residency in the district during his entire term.

(c) ELECTION

As provided in Article IX of this Charter, all twelve (12) members of the Council of Commissioners shall be nominated and elected by district.

(d) TERMS

Members of the Council of Commissioners shall be elected for staggered terms of four (4) years, except as otherwise provided in this Charter.

(e) VACANCIES

1. A vacancy in the Council of Commissioners shall exist upon death resignation or removal from office in any manner authorized by law, or the forfeiture of office by a member.

2. In the event a vacancy exists in any of the elected council seats, the Council of Commissioners shall appoint within sixty (60) days a qualified successor of the same political party as the member whose seat has become vacant. Such appointee shall reside in the district where the vacancy occurred and shall serve until the next general election at which a person shall be elected to fill the remainder of the original term.

(f) FORFEITURE

A member of the Council of Commissioners shall forfeit his office if he loses his qualification for his council seat, is convicted of theft, bribery, perjury, or any other felony.

(g) REMOVAL

The Council of Commissioners shall judge the election and qualifications of its members and may censure a member for good cause by a two-thirds (2/3) vote of all its members.

(h) COMPENSATION

The Council of Commissioners shall set by ordinance the annual salary of its members, the salaries of all other elected officials, and the number and salaries of the assistants of all other elected officials. (Amended by voters on Nov. 4, 1986).

SECTION 3.03 - POWERS OF THE COUNCIL OF COMMISSIONERS

The Council of Commissioners shall be the legislative and policy determining body of the local government. Except as otherwise provided by this Charter, the Council of Commissioners shall have all powers of the county which include but are not limited to, the power:

(a) to adopt ordinances and resolutions;

(b) to establish and prescribe the functions of departments, offices or agencies by ordinance or resolution in addition to those created by this Charter;

(c) subject to the limitations provided by law, to raise and borrow money;

(d) to make appropriations;

(e) to approve all contracts and claims;

(f) by ordinance or resolution to employ an attorney for purposes which the Council of Commissioners deems necessary;

(g) to cooperate and contract with other governmental units and agencies;

(h) by ordinance or resolution to provide for an independent audit of the finances of the local government;

(i) to authorize, by ordinance or resolution, community councils to advise the Council of Commissioners;

(j) by ordinance or resolution to establish duties consistent with law and to establish and regulate administrative procedures of appointed and elected officials;

(k) to approve the budget; however, the Council of Commissioners shall not levy in excess of the maximum number of mills provided by state law for the operation of unified local governments with general government powers. Should an increase in mill levies greater than the maximum number provided by state law be deemed necessary, said increase must be submitted to, and approved by a majority of the electorate voting on the question;

(NOTE: School levies shall be levied in accordance with Section 3.03 (m) of this Charter.)

(l) to discharge all duties required by state law for boards of County Commissioners in county governments and of City Councils in city governments;

(m) to levy such taxes for school purposes as are required to be levied by counties by state law.

SECTION 3.04 - RESTRICTIONS ON THE COUNCIL OF COMMISSIONERS

(a) Except for the purpose of inquiry or investigation under this Charter or the code of local government, the Council of Commissioners or its members shall deal with local government employees who are subject to the direction and supervision of any elected official, solely through the elected official and neither the Council of Commissioners nor its members may give orders to any such employee, either publicly or privately.

(b) The Council of Commissioners shall enact no ordinance or resolution prohibited by state law.

(c) The Council of Commissioners shall enact no law that impairs tenure rights or pension benefits of any employee, as the same are provided by state law.

SECTION 3.05 - COUNCIL OF COMMISSIONERS PROCEDURE, PUBLIC PARTICIPATION

(a) The legislative procedure of the Council of Commissioners shall be as prescribed by state

law.

(b) The Council of Commissioners shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings by the Clerk and Recorder.

(c) The Council of Commissioners shall have a chairman and a vice-chairman who shall be elected by the members of the Council of Commissioners from their own number for a term established by ordinance.

(d) The presiding officer for all regular and special meetings of the Council of Commissioners shall be the Chief Executive who shall decide all tie votes of the Council of Commissioners by shall have no other vote.

(e) The Council of Commissioners shall meet at least twice monthly and all meetings shall be open to the public except in such circumstances as are prescribed in state law.

(f) All documents and records of the Council of Commissioners shall be public records and shall be made available for examining or copying.

(g) The Council of Commissioners shall cause to be published a monthly summary of expenditures of the local government and the balance of each department.

ARTICLE IV

CHIEF EXECUTIVE

SECTION 4.01

(a) QUALIFICATIONS, ELECTIONS

The Chief Executive, who shall be a qualified elector and resident of Butte-Silver Bow for at least one (1) year before filing a nominating petition, shall be nominated and elected at large by the qualified electors of Butte-Silver Bow.

(b) TERM

The Chief Executive shall be elected for a term of four (4) years, except as otherwise provided in the transitional article of this Charter.

(c) VACANCIES

1. A vacancy in the office of Chief Executive shall exist upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in the office of chief executive, the Council of Commissioners shall appoint within sixty (60) days a qualified successor of the same political party as the person who vacated the office. Such appointee shall reside in the county and shall serve until the next general election at which a person shall be elected to fill the remainder of the original term. The chairman of the Council of Commissioners shall serve as acting Chief Executive until the vacancy is filled.

(d) FORFEITURE

The office of Chief Executive shall be deemed vacant or forfeit for the same reason that a council seat shall be deemed vacant or forfeit as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

The Council of Commissioners shall determine if the facts exist to warrant forfeiture of the office of Chief Executive.

(f) COMPENSATION

The salary of the Chief Executive shall be established by the Council of Commissioners, except as otherwise provided in the transitional article of this Charter.

(Amended by voters on Nov. 4, 1986).

SECTION 4.02 - POWERS AND DUTIES OF THE CHIEF EXECUTIVE

(a) The executive and administrative power of the new unit of local government is vested in the Chief Executive.

(b) The Chief Executive shall:

1. enforce ordinances, resolutions and laws;

2. perform duties required by law, ordinance, resolution and this Charter;

3. administer affairs of the local government;

4. carry out policies established by the Council of Commissioners;

5. recommend measures to the Council of Commissioners;

6. report to the Council of Commissioners and the public on the affairs and financial

office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in any of said offices, the Council of Commissioners shall appoint within sixty (60) days a qualified successor of the same political party as the person who vacated the office. Such appointee shall reside in the county and shall serve until the next general election at which a person shall be elected to fill the remainder of the original term.

(d) FORFEITURE

Any of said offices shall be deemed vacant or forfeit for the same reason that a council seat shall be deemed vacant or forfeit as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

The Council of Commissioners shall determine if the facts exist to warrant forfeiture of any of said offices.

(f) COMPENSATION

Except as otherwise provided in the transitional article of this Charter, each of said officers shall receive salaries provided by an ordinance enacted by the Council of Commissioners; however, the Public Administrator shall receive such compensation as is provided for that office by state law.

SECTION 5.03 - APPOINTMENT OF DEPUTIES

Each officer enumerated in Section 5.01 of this Article, except the Sheriff (See Section 5.13), shall appoint his own deputies, who shall serve at the pleasure of the officer.

SECTION 5.04 - POWERS AND DUTIES OF ELECTED OFFICERS

The County Attorney shall be the chief legal officer of the local government and he and the other officers enumerated in Section 5.01 shall have the power and duties provided by this Charter, law, ordinance or resolution.

SECTION 5.05 - CHIEF LAW ENFORCEMENT OFFICER

The Sheriff shall be the Chief Law Enforcement Officer of the government and shall have the duties and powers provided by this Charter, law, ordinance or resolution subject to the following provisions:

(a) The existing Police Department of the City of Butte and the Sheriff's Department of Silver Bow shall be combined into one department under the control and supervision of

the Sheriff. The present Chief of Police of the City of Butte shall be the Undersheriff and shall be paid at least the same salary received at the time of the adoption of this Charter.

(b) The present member of the City of Butte Police Department and the Deputy Sheriffs of Silver Bow county shall be members of the new department and have the same tenure rights provided by state law.

(c) The present members of both existing departments shall receive the same compensation, including base pay and longevity allowances, as they now receive until such time as the Council of Commissioners adopts a salary schedule for members of the new department.

(d) All appointments to the new department shall be made pursuant to the Metropolitan Police Law of the state, (Chapter 18, Title II, Revised Codes of Montana, 1947) except:

1. That the Sheriff shall have the powers therein given to the Mayor in a mayor-council form of municipal government, the Council of Commissioners shall have the powers of the City Council, and the Clerk and Recorder shall have the powers of the City Clerk, and;

2. Members of the department may be candidates for any elected office and may participate in political activities notwithstanding the provisions of the Metropolitan Police Law of the state.

(e) The Council of Commissioners shall establish by ordinance a Law Enforcement Commission consisting of five (5) members which shall have the powers and perform the duties required of police commissions by the Metropolitan Police Law and such other duties as the ordinance may provide.

(f) The Sheriff shall so organize the new department as to recognize the existing ranks attained by members of the existing Police and Sheriff Departments.

(g) All pension rights presently provided by state law to members of the existing City of Butte Police Department and the members of the Sheriff's Department of the County of Silver Bow shall continue in full force and effect, provided that the Council of Commissioners may by ordinance increase the pension benefits, and may in the future provide for a uniform pension system if the same is permitted by state law.

(h) When a vacancy occurs in the position of the Undersheriff after the adoption of this Charter, the Sheriff may fill such vacancy by appointing a person, qualified by training and experience, to fill such position without approval of the Police Commission or the Council of Commissioners, but such appointee shall acquire no tenure rights except those established tenure rights he has at the time of his appointment. If such appointed Undersheriff shall have been a member of the department prior to his appointment and

not continued in such position by the Sheriff, he shall revert to the former rank he held within the department. All other positions within the department shall be established by such ordinances as the Council of Commissioners shall adopt.

ARTICLE VI

JUDICIARY

SECTION 6.01

The Council of Commissioners shall have the authority delegated by state law to boards of county commissioners relative to Justices of the Peace and Constables. Justices of the Peace and Constables shall be elected as provided by state law.

SECTION 6.02

A Police Court shall continue to exist and shall have the jurisdiction provided by state law throughout the jurisdictional area of the government, which includes all of Silver Bow County excluding the territorial limits of the City of Walkerville.

The Police Judge shall be elected in the manner and for the term provided by state law and shall receive a salary fixed by ordinance.

If the state law permits, the Council of Commissioners may abolish the Police Court and establish such other courts of inferior jurisdiction as maybe permitted by law.

ARTICLE VII

ADMINISTRATIVE DEPARTMENTS

SECTION 7.01 - GENERAL

The powers and duties of the local government shall be distributed among such departments, agencies and offices as are established by this Charter or may be established thereunder by ordinance of the Council of Commissioners in order to execute and enforce policy as is determined by that body and to carry out obligations imposed on the county by state law; among such departments shall be:

SECTION 7.02 - PUBLIC WORKS DEPARTMENT

(a) There shall be a Public Works Department. The Chief Executive shall appoint, with the consent of the Council of Commissioners, a public works director qualified by training

or experience. Such director shall serve at the pleasure of the Chief Executive.

(b) Except as otherwise provided by this Charter, ordinance, or resolution, the Public Works Department shall be charged with the responsibility and administration of engineering; public right-of-way; sanitation; parks and recreation; and equipment.

(c) Nothing in the preceding enumeration shall be a limitation on the authority of the Council of Commissioners to establish by ordinance additional responsibilities to the Public Works Department.

SECTION 7.03 - FIRE DEPARTMENT

(a) There shall be a Fire Department which shall be composed of the paid Fire Department and Volunteer Fire Departments in Butte-Silver Bow.

(b) Except as otherwise provided by this Charter or until changed by ordinance, the organization, qualifications and appointment of officers and members of the paid Fire Department shall be governed by the provisions of Chapter 11, Title 19 of the Revised Codes of Montana, 1947, except that the Chief Executive shall have the powers and duties of a Mayor and the Council of Commissioners shall have the powers and duties of a City Council as provided in said state law; provided, however, any ordinance establishing Fire Department standards shall not be less than those established by state law. Qualified residents of the jurisdictional area of the government shall be eligible for appointment to the department.

(c) The disability, death, insurance and pension benefits of paid members of the Fire Department shall be established by state law, except the Council of Commissioners may establish by ordinance an additional pension or retirement system.

(d) Except as otherwise provided by this Charter or until changed by ordinance, the organization of existing Volunteer Fire Departments within the county shall be governed by the applicable sections of state law.

(e) The disability, death, insurance and pensions benefits of volunteer firemen shall continue to exist according to Sections 11-2022, 11-2023, and 16-5115.3(5) and (6) of the Revised Codes of Montana, 1947, which provides in part that this unit of local government shall have the status of a county; however, the Council of Commissioners may establish by ordinance an additional pension or retirement system.

(f) The Chief Executive shall appoint an advisory committee composed of three paid firemen selected by the members thereof, three volunteer firemen selected by the Volunteer Fire Council, and three members of the Council of Commissioners, who shall be selected by the Chief Executive with council approval; however, members of the Council of Commissioners appointed to this advisory committee shall not be members of either the

paid Fire Department or any Volunteer Fire Department. This advisory committee shall study and recommend to the Fire Coordinator ways and means of improving fire protection, suppression and related activities.

(g) There shall be a Fire Coordinator, qualified by training or experience, appointed by the Chief Executive with the consent of the Council of Commissioners, who shall serve at the pleasure of the Chief Executive and who shall be responsible for the administrative coordination and combination of the paid and volunteer fire departments, fire prevention and code enforcement. He shall have such other duties as may be prescribed by the Council of Commissioners. The salary of the Fire Coordinator shall be fixed by ordinance. If a member of either the paid or volunteer fire departments is appointed to the position of Fire Coordinator, such member shall retain his tenure and pension rights as a paid or volunteer fireman and may at his option return to his rank on said Fire Department when he ceases to be the Fire Coordinator.

If the person appointed as Fire Coordinator is not a member of either the paid or volunteer fire department at the time of his appointment, he shall not acquire any tenure or pension rights as a fireman while serving as Fire Coordinator.

(h) The Council of Commissioners shall establish by ordinance a uniform tax levy for fire protection services on all property within the following area of Silver Bow County excluding the territorial limits of the City of Walkerville: Beginning at the northwest corner Section 2, T. 3N., R. 8 W.; thence easterly to northeast corner Section 5, T. 3N., R. 7 W.; thence southerly to northwest corner Section 9, T. 3N., R. 7 W.; thence easterly to northeast corner Section 10, T. 3N., R. 7 W.; thence southerly to southeast corner Section 22, T. 2N., R. 7 W.; thence westerly to southwest corner Section 19, T. 2N., R. 7 W.; thence northerly to northwest corner Section 19, T. 2N., R. 7 W.; thence westerly to southwest corner Section 14, T. 2N., R. 8 W.; thence northerly to southwest corner Section 35, T. 3N., R. 8 W.; thence westerly to southwest corner Section 34, T. 3N., R. 8 W.; thence northerly to northwest corner Section 27, T. 3N., R. 8 W.; thence westerly to southwest corner Section 20, T. 3N., R. 8 W.; thence northerly to northwest corner Section 17, T. 3N., R. 8 W.; thence easterly to northwest corner Section 14, T. 3N., R. 8 W.; thence northerly to the point of beginning.

In those areas within Butte-Silver Bow outside of the area described above, the Council of Commissioners shall levy such taxes for fire protection as are required to pay for the services rendered.

(i) Prior to July 1, 1977, the Fire Coordinator shall submit to the Council of Commissioners a proposed ordinance for:

1. a plan of response procedures for maximum effective utilization of manpower and equipment available within the area described in Section 7.03(h) of this article.

2. ways to improve interdepartmental communications.

(j) Any ordinance changing boundaries of existing fire districts or reallocating fire fighting equipment shall require an affirmative vote by two-thirds (2\3) of the whole number of the Council of Commissioners. Butte-Silver Bow shall succeed to the liabilities of any volunteer fire district within the area described in Section 7.03 of this article. This shall be construed to apply to the payment of outstanding indebtedness for existing equipment within affected volunteer fire districts at the time of the adoption of this Charter.

The Council of Commissioners shall hold at least one (1) public hearing as specified by the laws of Montana prior to a boundary change of any fire district. The Council of Commissioners shall cause to be published notice of such hearing as specified by the laws of Montana.

ARTICLE VIII

SERVICE AND TAXING DISTRICTS

SECTION 8.01

The Council of Commissioners may levy such taxes as are presently permitted by state law for the operation of county governments, which taxes shall be levied on all property within the territorial limits of Silver Bow County, Montana.

In addition, the Council of Commissioners may levy such taxes as are presently permitted by state law for the operation of city governments, which taxes may be levied on all property within the County of Silver Bow except the area within the territorial limits of the City of Walkerville. The Council of Commissioners shall divide the jurisdictional area into districts and levy such taxes in said districts in proportion to the services rendered by the government in said districts.

Special taxes now levied for the Silver Bow County Metropolitan Sanitary and Storm Sewer District shall continue to be levied in accordance with the resolution creating said district, and maintenance charges shall be levied by the Council of Commissioners.

All existing special improvement districts, lighting districts, and garbage collection districts, shall continue to exist and levies for such special services shall continue to be the obligation of the owners of the property beneficially served in said districts, provided that the Council of Commissioners may change the boundaries or abolish garbage districts.

ARTICLE IX

NOMINATIONS AND ELECTIONS

SECTION 9.01 - ELECTED OFFICERS

The procedure for the nomination and election of all elected officials shall be as prescribed by state law for nonpartisan elections. These elections shall be held in conjunction with state elections.*

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* Editor's note: At the instruction of the county attorney, "partisan" was changed to "nonpartisan" based on an opinion of the Montana Attorney General that such amendment was inadvertently omitted.

SECTION 9.02 - DISTRICTS

On April 5, 1977, there shall be elected by district eleven (11) members of the Council of Commissioners. The twelfth (12th) member shall be the County Commissioner who was elected on November 7, 1972, who shall represent the district in which he resides because of the provisions of Section Six (3) of the transition schedule of the 1972 Montana Constitution. Two members shall be elected from five (5) Council of Commissioners districts set forth in the transition provisions of this Charter, and one from the district in which the aforementioned County Commissioner resides. All twelve (12) members shall serve a term ending on the first Monday January, 1979.

In 1978 there shall be elected two members from each of said districts who shall serve staggered terms of two and four years and the persons so elected shall draw lots to establish their respective terms of office. One of such persons shall serve the four year term, ending on the first Monday of January, 1983, and the other a two year term ending on the first Monday of January, 1981. In 1980, six (6) members of the Council of Commissioners shall be elected for a two-year term.

Prior to the primary election in 1982, the Clerk and Recorder shall recommend to the Council of Commissioners twelve (12) separate districts in conformity with Section 9.03 of this Charter and the 1980 census data.

In 1982 there shall be elected one member of the Council of Commissioners from each of these twelve (12) districts. Prior to February 1, 1982, the Council of Commissioners shall determine by lot six (6) of the twelve (12) districts from which a commissioner shall be elected for a term of four (4) years and in the remaining six (6) districts a commissioner shall be elected for a term of two (2) years.

At the election in 1982, six (6) members of the Council of Commissioners shall be elected for four (4) years and six (6) members shall be elected for two (2) years, and thereafter at an election held every two (2) years, six (6) commissioners shall be elected for a term of four (4) years.

SECTION 9.03 - REAPPORTIONMENT OF COUNCIL OF COMMISSIONERS DISTRICTS

(a) Within six (6) months after an official United States Census establishes that the population of any district differs in number from the average population of all districts by more than ten percent (10%), the Council of Commissioners shall modify the boundaries of districts so that such difference is eliminated.

(b) For the purposes of this section, the six-month period shall begin upon the availability of the most recent census.

(c) If the Council of Commissioners fails to perform the modifications required by subsection (a) of this section within the specified time, the members of the Council of Commissioners shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to those modifications.

SECTION 9.04 - REDISTRICTING

District boundaries shall be changed by ordinance, provided that such revised district's boundaries must comply with the population standards prescribed in Section 9.03 of this Charter. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the local government.

ARTICLE X

MISCELLANEOUS PROVISIONS

SECTION 10.01 - AMENDMENT OF CHARTER

This Charter may be amended only as prescribed by state law.

SECTION 10.02 - EFFECTIVE DATE

This Charter shall become effective on May 2, 1977.

SECTION 10.03 - SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 10.04 - INITIATIVE, REFERENDUM AND RECALL

(a) The state law shall establish the election, initiative and referendum procedures to be followed by the local government.

(b) The state law shall establish the procedure for the recall of elected officers of the local government.

SECTION 10.05 - ORDINANCES

Each ordinance, except general appropriation ordinances and ordinances for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any ordinance is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void. An ordinance may be challenged on the grounds of non-compliance with this section only within two (2) years after its effective date.

SECTION 10.06 - ANNUAL COMPILATION OF LAWS

As soon as practicable after June 30 of each year, the local government shall have published a compilation with index, which shall include all legislation and all rules and regulations of a general or permanent nature adopted or approved by the Council of Commissioners or Chief Executive during the preceding fiscal year.

SECTION 10.07 - EXISTING EMPLOYEES

The adoption of this Charter, or any provision thereof, shall not of itself affect the tenure, term or compensation of any appointed officer or employee of the local government then holding a position, except as otherwise provided in this Charter; however, the local government may exercise any power of a public employer with regard to its employees.

SECTION 10.08 - EMPLOYMENT POLICY

All hiring and promotions of local government employees shall be based on qualifications and merit.

SECTION 10.09 - ELECTED OFFICIAL'S SALARIES

There shall be no reduction in the specified salary of any elected official during his term of office.

ARTICLE XI

TRANSITIONAL PROVISIONS

SECTION 11.01 - GENERAL TRANSITION

Transition to this Charter form of government shall be as prescribed by state law. The Council of Commissioners may provide for such transition by ordinance, rule or resolution not inconsistent with state law. The provisions of this transition article shall not be valid after July 1, 1982.

SECTION 11.02 - COUNCIL OF COMMISSIONERS DISTRICTS

(a) Council of Commissioners districts shall initially consist of six (6) double member districts until modified in accordance with the provisions of this Charter. Council of Commissioners districts shall conform to the existing state legislative districts of Silver Bow County as the same are recorded and described in the office of the Clerk and Recorder.

(b) Prior to the primary election in 1982, the County Clerk and Recorder shall establish 12 separate Council of Commissioners districts, in conformity with the standards provided by Section 9.03 of this Charter.

SECTION 11.03 - INITIAL TERM OF ELECTED EXECUTIVE OFFICERS

The initial term of office for the Chief Executive, Attorney, Clerk and Recorder, Clerk of the District Court, Sheriff, Superintendent of Schools, Assessor, Coroner, Public Administrator, Auditor and Treasurer shall be from May 2, 1977 to the first Monday of January in 1981.

SECTION 11.04 - BOARDS, COMMISSIONS AND AUTHORITIES

All boards and authorities shall be maintained subject to budgetary, functional and organizational review by the Council of Commissioners. This review shall be accomplished by June 30, 1979.

SECTION 11.05 - TRANSITIONAL SALARIES OF ELECTED OFFICIALS

The salaries of all elected officials shall be as provided by ordinance; however, for the initial term of office, elected officials shall be compensated annually according to the following

provisions:

(a) Chief Executive, $26,000; Sheriff, $17,500; Coroner, $4,700; and the Auditor, Treasurer, Clerk and Recorder, Superintendent of Schools, and the Clerk of the District Court shall receive $14,200. The Public Administrator shall receive such compensation as is provided for that office by state law.

(b) The County Attorney shall receive $25,000, to be paid in accordance with the applicable sections of state law for full-time county attorneys in counties with populations greater than 30,000 residents.

(c) Members of the Council of Commissioners shall receive $150.00 per month. In addition to their monthly salary, members of the Council of Commissioners shall receive $50.00 per month as reimbursement for travel expenses.

(d) The Chairman of the Council of Commissioners shall receive such additional compensation as is determined by the Council of Commissioners.

SECTION 11.06 - DEBT RESPONSIBILITY

Butte-Silver Bow shall be vested with the title to, and shall own and control all rights and property, both real and personal, of every kind and description, which are now owned by Silver Bow County and the City of Butte on the effective date of this Charter. It shall also assume and pay all debts, obligations and liabilities, both contractual and otherwise incurred by Silver Bow County and the City of Butte, provided that all bond or special fund indebtedness not a general obligation of the former governments shall continue to be payable in accordance with the terms of the instruments creating such indebtedness by the persons obligated thereon.

SECTION 11.07 - TRANSITION SUGGESTIONS

Members of the local government Study Commissions within Butte-Silver Bow shall initiate plans of transition and implementation for the new unit of local government and shall serve in an advisory capacity between November 2, 1976 and May 2, 1977.

We, the Study Commission of Butte-Silver Bow do hereby certify that this is the existing plan of government as established by the voters of Butte-Silver Bow.

SEAL

In testimony whereof, we set our hands

Done at Butte-Silver Bow this 19th day of March, 1996.

Attest: Barbara Sullivan
Barbara Sullivan
Clerk and Recorder

James F. Michelotti, Chairman

Ted Bury, Sr.

Ron Cass

Phyllis P. Egan

Jim Pabatz

Jack Hanley

William M. O'Leary

Jean Ruppert

John Svaldi

CERTIFICATE
ESTABLISHING THE PROPOSED AMENDMENTS TO THE
BUTTE-SILVER BOW CHARTER

I. Proposed Amendments Enabling The Electorate To Decide Whether To Abolish Certain Executive Officers As Separately Elected Offices.

SECTION 5.01 - EXECUTIVE OFFICERS

In addition to the Chief Executive, the executive branch includes the following officers:

(a) County Attorney
(b) Clerk and Recorder
(c) Clerk of the District Court
(d) Superintendent of Schools
(e) Sheriff
(f) Assessor
(g) Coroner
(h) Public Administrator
(i) Auditor
(j) Treasurer

Each of the foregoing officers shall be nominated and elected at-large by the qualified electors of ~~Butte-Silver Bow County, Montana~~ the City-County, except those officers whose continuation as a separate elected office is to be determined by the voters at the June 4, 1996 election. ~~(Amended by voters on Nov. 4, 1986).~~

SECTION 11.02 - Terms of Executive Officers Those elected officers of the executive branch enumerated in section 5.01 whose offices will no longer be included as a separate elected office, as determined by the voters at the June 4, 1996 election, may continue in office and in the performance of their duties until January 6, 1997 whereupon their office shall be abolished as a separate elected office.

The officers to be referred to the electorate for determination of the method of selection are:

1. Assessor
2. Public Administrator
3. Superintendent of Schools
4. Auditor

II. Composite Of Proposed Amendments Showing All Deletions And Additions Including Stylistic Changes, Deletion Of Gender Specific Language and Transition Implementation

Language No Longer Applicable.

CHARTER

PREAMBLE

WE, THE PEOPLE of the ~~City of Butte and the County of Silver Bow,~~ City and County of Butte-Silver Bow, State of Montana, in accordance with Article XI, Section 5 of the Montana Constitution and the laws of the State of Montana, recognizing the unique characteristics of our community and in order to improve the quality of life for these and future generations, do adopt this Charter of the City and County of Butte-Silver Bow, State of Montana. ~~, which will hereby establish a local government combining the existing units of government of the City of Butte and the County of Silver Bow.~~

ARTICLE I

NAME AND BOUNDARIES

SECTION 1.01 - NAME

~~The City of Butte and the County of Silver Bow, State of Montana,~~ The consolidated local government will be known by name as "the City and County of Butte-Silver Bow, ~~State of~~ Montana, a ~~body corporate and politic~~ municipal corporation and political subdivision of the State of Montana" ~~under the Montana Constitution.~~ and may be referred to as the City-County or Butte-Silver Bow City-County.

SECTION 1.02 - JURISDICTION

(a) As a political subdivision of the state, the consolidated unit of local government shall have the status of a county and an incorporated municipality for all purposes and shall replace and be the successor of Silver Bow County and the City of Butte.

~~The new unit of local government shall exercise the powers established by law for the government of the County of Silver Bow as a political subdivision of the State of Montana, throughout the territorial limits of the County of Silver Bow as presently established.~~

~~The new unit of local government shall exercise the self-government powers permitted by law throughout the territorial limits of the County of Silver Bow; however, nothing contained within this article shall be construed to authorize the local government of Butte-Silver Bow to enact any laws or regulations for the City of Walkerville on matters covered by the powers granted to said municipality by law.~~

(b) COUNTY POWERS

The consolidated local government shall have and may exercise all powers that are conferred on counties by Montana law throughout the territorial limits of the consolidated City and County.

(c) MUNICIPAL POWERS

The consolidated local government shall have and may exercise all municipal powers that are conferred on cities by Montana law; provided, however, that the consolidated local government may not exercise municipal powers within the Town of Walkerville, Montana without the consent of the Town of Walkerville.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01 - POWERS OF THE GOVERNMENT

The City-County shall have self-government powers as provided by Article XI, Sections 5 and 6 of the Montana Constitution and Part 1 of Chapter 1 of Title 7 of the Montana Code Annotated and may exercise any power not prohibited by the constitution, law, or this Charter. These powers include but are not limited to the powers granted to general power governments.

~~Butte-Silver Bow shall have self-government powers, which are all powers not prohibited by the Constitution of the State of Montana, the laws of the state or this charter. These powers include, but are not limited to, the power now exercised by cities, towns, and counties by law, except as otherwise provided by this charter; to contract; to use a corporate seal; to sue and be sued; to acquire property within the jurisdiction of the local government of Butte-Silver Bow for any purpose in fee simple or lesser interest or estate; to purchase, receive, lease or lease with privilege to purchase, manage and control such property as the interest of the local government of Butte-Silver Bow may require; to levy and collect such taxes authorized by this charter and law.~~

SECTION 2.02 - LIMITATIONS

Limitations on self-government powers shall be as ~~provided by applicable sections of state law which provide in part that a charter form of local government is prohibited from establishing or exercising:~~ set forth in Part 1 of Chapter 1 of Title 7 of the Montana Code Annotated.

~~(a) a sales or income tax, unless that power is specifically delegated to local government by the laws of Montana.~~ In addition, the ~~local government of Butte-Silver Bow~~ City-County shall not authorize a local sales or income tax until it is approved by a vote of the

people. ~~; however, this section shall not be construed to limit the authority of the local government of Butte-Silver Bow to levy any other tax or establish the rate of any other tax;~~

~~(b) any power that applies to or affects any private or civil relationship;~~

~~(c) any power that applies to or affects the provisions of Title 41 (labor), chapter 16 of Title 59 (collective bargaining for public employees), Title 87 (unemployment compensation), or Title 92 (Workers' Compensation) except that subject to the provisions of those titles it may exercise any power of a public employer with regard to its employees. Also, the minimum wages, insurance benefits and longevity for confirmed or tenured employees of local government shall not be lower than state requirements;~~

~~(d) any power that establishes a rate or price otherwise determined by a state agency;~~

~~(e) any power that applies to or affects the right to keep or bear arms.~~

~~SECTION 2.03~~

~~The new local government unit shall not in the exercise of its self-government powers enact any ordinance, resolution or regulation pertaining to the local government of the City of Walkerville, Montana, which is a municipal corporation organized under the laws of Montana and which shall continue to exercise such powers as are granted to it as a municipal corporation and city by state law; provided, however, the new unit of local government may enter into agreements with the City of Walkerville to provide local services on terms as may be mutually agreeable.~~

~~SECTION 2.04~~

~~The new unit of local government when exercising those powers as a county and therefore a political subdivision of the State of Montana, may enact those ordinances, resolutions or regulations as are permitted by state law which shall be applicable to residents of the City of Walkerville insofar as they are also residents of the area presently known as the County of Silver Bow, State of Montana.~~

SECTION ~~2.05~~ 2.03 - CHARTER SUPREMACY

As provided by Article XI, Section 5 of the Constitution of the State of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

SECTION ~~2.06~~ 2.04 - INTERPRETATION OF POWERS

The powers and authority of this self-government unit shall be liberally construed. Every reasonable doubt as to the existence of this government's power shall be resolved in favor of the

existence of that power or authority.

~~SECTION 2.07 - CONTINUANCE~~

~~All ordinances, resolutions, by-laws, rules and regulations, or portions thereof, in force on the effective date of this charter and not inconsistent or in conflict herewith, shall be continued in full force and effect within the jurisdictional boundaries for which they were written until amended, repealed, superseded or expired by their own terms.~~

~~SECTION 2.08 - OATH OF OFFICE~~ SECTION 2.05 - OATH OF OFFICE

~~Before entering upon the duties of office, all~~ All City-County elected and appointed ~~officials~~ officers shall take and subscribe the following oath or affirmation, before they enter upon the duties of their offices: ~~of office as prescribed in Article III, Section 3 of the Constitution of the State of Montana.~~

> "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, the Constitution of the State of Montana, and the Charter of the City-County of Butte-Silver Bow, and that I will discharge the duties of my office with fidelity (so help me God)."

~~SECTION 2.09 - ELECTION OF LOCAL GOVERNMENT OFFICERS~~

~~All local government elected officers shall be nominated and elected on a nonpartisan basis. (Added by voters on Nov. 4, 1986).~~

ARTICLE III

LEGISLATIVE POWERS

SECTION 3.01 - POWERS AND STRUCTURE

The legislative power of the ~~new unit of local government~~ City-County is vested in a Council of Commissioners and may be exercised only by ordinance or resolution.

SECTION 3.02 - ORGANIZATION

Except as otherwise provided by this Charter, the composition, qualification, elections, terms, vacancies, forfeiture, removal and compensation of the members of the council of commissioners shall be as specified by the following provisions:

(a) COMPOSITION

There shall be a Council of Commissioners of ~~Butte-Silver Bow~~ the City-County composed of twelve (12) members, at least six (6) of whom shall be elected every two (2) years.

(b) QUALIFICATION

A candidate for the Council of Commissioners shall be a qualified elector and resident of ~~Butte-Silver Bow~~ the City-County for at least one (1) year preceding the date the candidate files a nominating petition and must be a resident of the district for six (6) months. A member of the Council of Commissioners must maintain residency in the district during ~~his~~ the entire term. No member of the Council of Commissioners shall hold any other elective public office or be employed by the City-County.

(c) ELECTION

As provided in Article IX of this Charter, all twelve (12) members of the Council of Commissioners shall be nominated and elected by district.

(d) TERMS

Members of the Council of Commissioners shall be elected for staggered terms of four (4) years. ~~, except as otherwise provided in this charter.~~

(e) VACANCIES

1. A vacancy in the Council of Commissioners shall exist upon death, resignation or removal from office in any manner authorized by law, or the forfeiture of office by a member.

2. In the event a vacancy exists in any of the elected council seats, the Council of Commissioners shall appoint within sixty (60) days a qualified successor ~~of the same political party as~~ to the member whose seat is vacant. Such appointee shall be a qualified elector and resident ~~reside~~ in the district where the vacancy occurred for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill the remainder of the original term.

(f) FORFEITURE

A member of the Council of Commissioners shall forfeit ~~his~~ the office ~~if he loses his qualification for his council seat,~~ upon moving from the district, if the election or appointment is declared invalid, ~~is convicted~~ or upon conviction of theft, bribery,

perjury, official misconduct or any ~~other~~ felony.

(g) REMOVAL

The Council of Commissioners shall judge the election and qualifications of its members and may censure a member for good cause by a two-thirds (2/3) vote of all its members.

(h) COMPENSATION

The Council of Commissioners shall set by ordinance the annual salary of its members. ~~, the salaries of all other elected officials, and the number and salaries of the assistants of all other elected officials. (Amended by voters on Nov. 4, 1986).~~

SECTION 3.03 - POWERS AND DUTIES OF THE COUNCIL OF COMMISSIONERS

The Council of Commissioners shall be the legislative and policy determining body of the ~~local government~~ City-County. Except as otherwise provided by this Charter, the Council of Commissioners shall have all legislative powers ~~of the county~~ and duties conferred on counties and cities which include but are not limited to, the power and duty:

(a) to adopt ordinances and resolutions;

(b) to establish and prescribe the functions of departments, offices or agencies by ordinance or resolution in addition to those created by this Charter;

~~(c) subject to the limitations provided by law, to raise and borrow money;~~

~~(d) to make appropriations;~~

~~(e) to approve all contracts and claims;~~

~~(f)~~ (c) ~~by ordinance or resolution~~ to employ an attorney for purposes which the Council of Commissioners deems necessary;

~~(g) to co-operate and contract with other governmental units and agencies.~~

~~(h)~~(d) ~~by ordinance or resolution~~ to provide for an independent audit of the finances of the local government;

~~(i)~~ (e) to authorize~~, by ordinance or resolution,~~ community councils to advise the Council of Commissioners;

~~(j)~~ (f) ~~by ordinance or resolution~~ to adopt an administrative code to establish duties consistent with law and to establish and regulate administrative procedures of appointed and elected

~~officials~~ officers;

~~(k) to approve the budget; however, the council of commissioners shall not levy in excess of the maximum number of mills provided by State law for the operation of unified local governments with general government powers. Should an increase in mill levies greater than the maximum number provided by state law be deemed necessary, said increase must be submitted to, and approved by a majority of the electorate voting on the question; (NOTE: School levies shall be levied in accordance with Section 3.03 (m) of this charter.)~~

~~(l)~~ (g) to discharge all legislative duties required by state law for boards of county commissioners in county governments and of city councils in city governments;

~~(m) to levy such taxes for school purposes as are required to be levied by counties by state law.~~

(h) to adopt by ordinance either county or municipal provisions as set forth in state law for finance, accounting, budget, elections, issuance of bonds, creation of special districts, levying of taxes, planning and zoning, and provision of services. The Council shall provide that all functions mandated upon either cities or counties shall be complied with.

(i) to approve the budget; however, the council of commissioners shall not levy in excess of the maximum number of mills provided by State law for the operation of unified local governments with general government powers. Should an increase in mill levies greater than the maximum number provided by state law be deemed necessary, said increase must be submitted to, and approved by a majority of the electorate voting on the question;

(j) to eliminate a local office or department by ordinance if state law eliminates such local office or department or if state law changes the name of a local office or department, the Council of Commissioners may change the name appropriately by ordinance, all without the necessity of amending this Charter.

(k) to cooperate and enter into agreements with other governmental units and agencies.

SECTION 3.04 - RESTRICTIONS ON THE COUNCIL OF COMMISSIONERS

~~(a)~~ Except for the purpose of inquiry or investigation under this Charter or the Administrative Code ~~of local government~~, the Council of Commissioners or its members shall deal with local government employees who are subject to the direction and supervision of any elected or appointed ~~official~~ officer, solely through the appropriate elected or appointed ~~official~~ officer and neither the Council of Commissioners nor its members may give orders to any such employee, either publicly or privately.

~~(b) The council of commissioners shall enact no ordinance or resolution prohibited by state law.~~

~~(c) The council of commissioners shall enact no law that impairs tenure rights or pension benefits of any employee, as the same are provided by state law.~~

SECTION 3.05 - COUNCIL OF COMMISSIONERS PROCEDURE, PUBLIC PARTICIPATION

(a) The legislative procedure of the Council of Commissioners shall be as prescribed by state law.

(b) The Council of Commissioners shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings by the Clerk and Recorder.

(c) The Council of Commissioners shall have a ~~chairman~~ chair and a vice-~~chairman~~ chair who shall be elected by the members of the Council of Commissioners from their own number for a term established by ordinance.

(d) The presiding officer for all regular and special meetings of the Council of Commissioners shall be the Chief Executive who shall decide all tie votes of the Council of Commissioners but shall have no other vote.

(e) The Council of Commissioners shall meet at least twice monthly and all meetings shall be open to the public except in such circumstances as are prescribed in state law.

(f) All documents and records of the Council of Commissioners shall be public records and shall be made available for examining or copying.

~~(g) The Council of Commissioners shall cause to be published a monthly summary of expenditures of the local government and the balance of each department.~~

ARTICLE IV

CHIEF EXECUTIVE

SECTION 4.01

(a) QUALIFICATIONS, ELECTIONS

The Chief Executive, who shall be a qualified elector and resident of ~~Butte-Silver Bow~~ the City-County for at least one (1) year before filing a nominating petition, shall be nominated and elected at-large by the qualified electors of ~~Butte-Silver Bow~~ the City-

County. The Chief Executive shall not hold any other elective public office or be employed by anyone other than the City-County. The Chief Executive must maintain residency within the City-County during the entire term.

(b) TERM

The Chief Executive shall be elected for a term of four (4) years. ~~, except as otherwise provided in the transitional article of this charter.~~

(c) VACANCIES

1. A vacancy in the office of Chief Executive shall exist upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in the office of Chief Executive, the Council of Commissioners shall appoint within sixty (60) days a qualified successor ~~of the same political party as~~ to the person who vacated the office. Such appointee shall be a qualified elector and resident ~~reside~~ ~~in~~ within the ~~county~~ City-County for at leats one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill the remainder of the original term. The ~~chairman~~ Chair of the Council of Commissioners shall serve as acting Chief Executive until the vacancy is filled.

(d) FORFEITURE

The office of Chief Executive shall be deemed vacant or forfeit for the same reasons that a council seat shall be deemed vacant or forfeited as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

The Council of Commissioners shall determine if the facts exist to warrant forfeiture of the office of Chief Executive.

(f) COMPENSATION

The salary of the Chief Executive shall be established by an ordinance enacted by the Council of Commissioners. ~~, except as otherwise provided in the transitional article of this charter. (Amended by voters on Nov. 4,1986).~~

SECTION 4.02 - POWERS AND DUTIES OF THE CHIEF EXECUTIVE

(a) The executive and administrative power of the ~~new unit of local government~~ City-County is vested in the Chief Executive.

(b) The Chief Executive shall:

1. enforce ordinances, resolutions and laws;

2. perform duties required by law, ordinance, resolution and this Charter;

3. administer affairs of the local government;

4. carry out policies established by the Council of Commissioners;

5. recommend measures to the Council of Commissioners;

6. report to the Council of Commissioners and the public on the affairs ~~and financial condition~~ of the local government;

7. execute bonds, notes, contracts and written obligations of the government, subject to the approval of the Council of Commissioners;

8. report to the Council of Commissioners as the ~~commission~~ Council may require;

9. attend meetings of the Council of Commissioners and may take part in discussion;

10. execute the budget adopted by the ~~commission~~ Council of Commissioners;

11. appoint, with the advice and consent of the Council of Commissioners, all members of boards; except, the Chief Executive may appoint without the advice and consent of the Council of Commissioners temporary advisory committees established by the executive;

12. prepare and provide to the Council of Commissioners and the public an annual report setting forth the activities and accomplishments of the local government.

13. prepare and provide to the Council of Commissioners and the public interim and annual financial information, reported in a manner that presents fairly the financial position and results of operations of the City-County.

(c) The Chief Executive may appoint one administrative aide, qualified by training or experience, to assist in the supervision and operation of the local government; however, this section shall not affect the appointment of department heads which shall be done pursuant to Section 4.02 (d) of this Charter. Such administrative aide shall be answerable solely to the Chief Executive.

(d) The Chief Executive shall appoint with the advice and consent of the Council of Commissioners all non-elected department heads who shall serve at the pleasure of the

Chief Executive. The Chief Executive shall have the power to hire and fire all other employees of the local government with the exception of those employees hired by other elected ~~officials~~ officers and those who have gained tenure as defined by statute or ordinance; however, the Chief Executive may discharge tenured employees for cause as provided in state law.

(e) The Chief Executive may veto ordinances and resolutions subject to override by a two-thirds (2/3) vote of the whole Council of Commissioners.

(f) The Chief Executive shall prepare the budget in consultation with elected and appointed department heads and submit it to the Council of Commissioners for adoption.

(g) The Chief Executive shall exercise control and supervision of all appointed departments and boards to the degree authorized by ordinance of the Council of Commissioners.

(h) It shall be the duty and responsibility of the Chief Executive to require the faithful execution of this Charter, ordinances, resolutions and laws by all elected and appointed ~~officials~~ officers.

(i) The Chief Executive shall be responsible for coordinating policies of the Council of Commissioners with all elected and appointed department heads.

ARTICLE V

EXECUTIVE BRANCH

SECTION 5.01 - EXECUTIVE OFFICERS

In addition to the Chief Executive, the executive branch includes the following officers:

(a) County Attorney
(b) Clerk and Recorder
(c) Clerk of the District Court
(d) Superintendent of Schools
(e) Sheriff
(f) Assessor
(g) Coroner
(h) Public Administrator
(i) Auditor
(j) Treasurer

Each of the foregoing officers shall be nominated and elected at-large by the qualified electors of ~~Butte-Silver Bow County, Montana~~ the City-County, except those officers whose continuation

as a separate elected office is to be determined by the voters at the June 4, 1996 election. ~~(Amended by voters on Nov. 4, 1986).~~

SECTION 5.02

(a) QUALIFICATION, ELECTIONS

1. A candidate for any of the foregoing offices shall be a qualified elector and resident of the ~~county~~ City-County for at least one (1) year prior to filing a nominating petition, and must maintain residency during the term.

2. In addition to the foregoing qualifications, ~~the County Attorney and the Superintendent of Schools~~ a candidate shall have ~~the qualification~~ all education, training and experience required by state law for the respective office.

3. No person holding any of the above offices shall hold any other elective public office.

4. Each elected officer must maintain residency within the City-County during the entire term.

(b) TERM

The term for each of said offices shall be four (4) years. ~~except as provided in the transitional article of this charter.~~

(c) VACANCIES

1. A vacancy in any of said offices shall exist upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in any of said offices, the Council of Commissioners shall appoint within sixty (60) days a qualified successor ~~of the same political party as~~ to the person who vacated the office. Such appointee shall be a qualified elector and resident ~~reside in~~ within the ~~county~~ City-County for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill the remainder of the original term.

(d) FORFEITURE

Any of said offices shall be deemed vacant or forfeit for the same reason that a council seat shall be deemed vacant or forfeit as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

The Council of Commissioners shall determine if the facts exist to warrant forfeiture of any of said offices.

(f) COMPENSATION

~~Except as otherwise provided in the transitional article of this charter, each~~ Each of said officers shall receive salaries provided by an ordinance enacted by the Council of Commissioners. ~~; however, the Public Administrator shall receive such compensation as is provided for that office by state law.~~

SECTION 5.03 - APPOINTMENT OF DEPUTIES

Each elected officer ~~enumerated in Section 5.01 of this Article, except the sheriff (See Section 5.13), shall appoint his own deputies, who shall serve at the pleasure of the officer.~~ entitled by ordinance to appoint a deputy or deputies shall appoint such deputy or deputies.

SECTION 5.04 - POWERS AND DUTIES OF ELECTED OFFICERS

The County Attorney shall be the chief legal officer of the local government and ~~he and~~ along with the other officers enumerated in Section 5.01 shall have the power and duties provided by this Charter, law, ordinance or resolution.

SECTION 5.05 - ~~CHIEF~~ LAW ENFORCEMENT ~~OFFICER~~ DEPARTMENT

The Sheriff shall be the chief law enforcement administrative officer of the government and shall have the duties and powers provided by this Charter, law, ordinance or resolution subject to the following provisions:

(a) ~~The existing police department of the City of Butte and the sheriff's department of Silver Bow shall be combined into one~~ There shall be a Law Enforcement Department under the control and supervision of the Sheriff. ~~The present chief of police of the City of Butte shall be the undersheriff and shall be paid at least the same salary received at the time of the adoption of this charter.~~

~~(b) The present member of the City of Butte police department and the deputy sheriffs of Silver Bow County shall be members of the new department and have the same tenure rights provided by state law.~~

~~(c) The present members of both existing departments shall receive the same compensation, including base pay and longevity allowances, as they now receive until such time as the council of commissioners adopts a salary schedule for members of the new department.~~

~~(d)~~ (b) All appointments to the ~~new~~ Law Enforcement Department shall be made pursuant to the ~~Metropolitan~~ Municipal Police Law of the state, ~~(Chapter 18, Title II, Revised Codes of Montana, 1947)~~ except:

1. That the Sheriff shall have the powers therein given to the Mayor in a mayor-council form of municipal government, the Council of Commissioners shall have the powers of the city council, and the Clerk and the Recorder shall have the powers of the city clerk, and;

2. Members of the department may be candidates for any elected office and may participate in political activities notwithstanding the provisions of the ~~Metropolitan~~ Municipal Police Law of the state.

~~(e)~~ (c) The Council of Commissioners shall establish by ordinance a Law Enforcement Commission consisting of five (5) members which shall have the powers and perform the duties required of police commissions by the ~~Metropolitan~~ Municipal Police Law and such other duties as the ordinance may provide.

~~(f) The sheriff shall so organize the new department as to recognize the existing ranks attained by members of the existing police and sheriff departments.~~

~~(g) All pension rights presently provided by state law to members of the existing City of Butte police department and the members of the sheriff's department of the County of Silver Bow shall continue in full force and effect, provided that the council of commissioners may by ordinance increase the pension benefits, and may in the future provide for a uniform pension system if the same is permitted by state law.~~

~~(h)~~ (d) ~~When a vacancy occurs in the position of the undersheriff after the adoption of this charter, the~~ The Sheriff may ~~fill such vacancy by appointing~~ appoint an Undersheriff who shall be a person, qualified by training and experience, to ~~fill such position without~~ assist in supervision and operation of the department. Such Undersheriff shall be answerable to the Sheriff and shall not be subject to the approval of the ~~police~~ Law Enforcement Commission or the Council of Commissioners. ~~, but such~~ Such appointee shall acquire no ~~tenure~~ vested rights ~~except those established tenure rights he has at the time of his appointment. If such appointed undersheriff shall have been a member of the department prior to his appointment and not continued in such position by the sheriff, he~~ as a confirmed officer in the Law Enforcement Department; provided, however, that if the appointee was a confirmed officer in the department at the time of appointment as Undersheriff, those rights shall be protected and retained. If such appointee was a confirmed officer in the department prior to appointment as Undersheriff and not continued in such position by the Sheriff, the appointee shall revert to the former rank ~~he~~ held within the department. All other positions within the department shall be established by such ordinances as the Council of

Commissioners shall adopt.

ARTICLE VI

JUDICIARY

SECTION 6.01 - JUSTICE COURT

The Council of Commissioners shall ~~have the authority delegated by state law to boards of county commissioners relative to justices of the peace and constables.~~ establish Justice Courts as provided by state law. Justices of the peace ~~and constables~~ shall be elected as provided by state law~~.~~ and shall receive a salary fixed by ordinance.

SECTION 6.02 - CITY COURT

(a) A ~~Police~~ City Court shall ~~continue to exist and shall~~ have the jurisdiction provided by state law throughout the jurisdictional area of the ~~government, which includes all of Silver Bow County~~ City-County excluding that area within the territorial limits of the ~~City~~ Town of Walkerville. If the Town of Walkerville requests the City-County to enforce specific ordinances within Walkerville, then the City Court shall have jurisdiction within the Town of Walkerville for such purposes.

(b) The ~~police~~ City Judge shall be elected in the manner and for the term provided by state law and shall receive a salary fixed by ordinance.

(c) ~~If the state law permits, the~~ The ~~council of commissioners~~ City-County may ~~abolish the police court and~~ establish such other courts of inferior jurisdiction as may be permitted by law.

ARTICLE VII

ADMINISTRATIVE DEPARTMENTS

SECTION 7.01 - GENERAL

The powers and duties of the ~~local government~~ City-County shall be distributed among such departments, agencies and offices as are established by this Charter or may be established thereunder by ordinance of the Council of Commissioners in order to execute and enforce policy as is determined by that body and to carry out obligations imposed on the ~~county~~ City-County by state law; among such departments shall be:

SECTION 7.02 - PUBLIC WORKS DEPARTMENT

(a) There shall be a Public Works Department which shall be charged with the responsibility and administration of engineering; streets, roads and other public right-of-way; water and sewer; solid waste collection and disposal; parks and recreation; and maintenance and operation of related equipment. ~~The Chief Executive shall appoint, with the consent of the Council of Commissioners, a Public Works Director qualified by training or experience. Such director shall serve at the pleasure of the Chief Executive.~~

~~(b) Except as otherwise provided by this Charter, ordinance, or resolution, the Public Works Department shall be charged with the responsibility and administration of engineering; public right-of-way; sanitation; parks and recreation; and equipment.~~

(b) The Chief Executive shall appoint, with the consent of the Council of Commissioners, a Public Works Director qualified by training or experience. Such director shall serve at the pleasure of the Chief Executive.

~~(c) Nothing in the preceding enumeration shall be a limitation on the authority of the Council of Commissioners to establish by ordinance additional responsibilities to the Public Works Department.~~

(c) The Council of Commissioners may establish by ordinance additional responsibilities for the Public Works Department.

SECTION 7.03 - FIRE DEPARTMENT

(a) There shall be a Fire Department which shall be composed of the paid Fire Department and Volunteer Fire Departments in ~~Butte-Silver Bow~~ the City-County.

(b) Except as otherwise provided by this Charter or until changed by ordinance, the organization, qualifications and appointment of officers and members of the paid Fire Department shall be governed by the provisions of ~~Chapter 11, Title 19 of the Revised Codes of Montana, 1947~~ the Montana Municipal Fire Department Law, except that the Chief Executive shall have the powers and duties of a Mayor and the Council of Commissioners shall have the powers and duties of a city council as provided in said state law and the Fire Commission shall have those powers and duties as set forth in subsection 7.03(c). ~~; provided, however, any ordinance establishing fire department standards shall not be less than those established by state law. Qualified residents of the jurisdictional area of the government shall be eligible for appointment to the department.~~

~~(c) The disability, death, insurance and pension benefits of paid members of the fire department shall be established by state law, except the council of commissioners may establish by ordinance an additional pension or retirement system.~~

(c) The Council of Commissioners shall establish by ordinance a Fire Commission consisting of five (5) members, which shall have the power and duty to:

(i) test applicants for appointment to the paid Fire Department; and

(ii) test firefighters for promotion within the paid Fire Department; and

(iii) test applicants for appointment as Director of Fire Services; and

(iv) hear, try and decide all charges brought against any member of the paid Fire Department and such other duties as the ordinance may provide.

(d) Except as otherwise provided by this Charter or until changed by ordinance, the organization of existing Volunteer Fire Departments within the ~~county~~ City-County shall be governed by the applicable sections of state law, except that the Chief Executive shall have the executive and administrative powers and duties of the Chair of the Board of County Commissioners and the Council of Commissioners shall have the legislative powers and duties of the Board of County Commissioners as provided in said state law.

~~(e) The disability, death, insurance and pensions benefits of volunteer firemen shall continue to exist according to Sections 11-2022, 11-2023, and 16-5115.3(5) and (6) of the Revised Codes of Montana, 1947, which provide in part that this unit of local government shall have the status of a county; however, the council of commissioners may establish by ordinance an additional pension or retirement system.~~

(~~f~~ e) The Chief Executive shall appoint an advisory committee composed of three paid ~~firemen~~ firefighters selected by the members thereof, three volunteer ~~firemen~~ firefighters selected by the Volunteer Fire Council, and three members of the Council of Commissioners, who shall be selected by the ~~Chief Executive with~~ Council ~~approval~~; however, no members of the Council of Commissioners, who shall be selected by the Council; however, no member of the Council of Commissioners appointed to this advisory committee shall ~~not~~ currently be a firefighter. ~~members of either the paid Fire Department or any Volunteer Fire Department.~~ This advisory committee shall study and recommend to the ~~Fire Coordinator~~ Director of Fire Services ways and means of improving fire protection, suppression and related activities.

(~~g~~ f) ~~There~~ The paid Fire Chief shall be ~~a~~ the ~~Fire Coordinator~~ Director of Fire Services ~~, qualified by training or experience, appointed by the chief executive with the consent of the council of commissioners, who shall serve at the pleasure of the chief executive and~~ and ~~who~~ shall be responsible for the administrative coordination and combination of the paid and Volunteer Fire Departments fire prevention and code enforcement. ~~He shall have such other duties as may be prescribed by the council of commissioners. The salary of the fire coordinator shall be fixed by ordinance. If a member of either the paid or volunteer fire departments is appointed to the position of fire coordinator, such member~~

~~shall retain his tenure and pension rights as a paid or volunteer fireman and may at his option return to his rank on said fire department when he ceases to be the fire coordinator.~~

~~If the person appointed as fire coordinator is not a member of either the paid or volunteer fire department at the time of his appointment, he shall not acquire any tenure or pension rights as a fireman while serving as fire coordinator.~~

(~~h~~ g) 1. The Council of Commissioners shall establish by ordinance a district ~~uniform tax levy~~ for fire protection services, excluding that area within the Town of Walkerville. Within this district there shall be a uniform tax levy for fire protection services. ~~on all property within the following area of Silver Bow County excluding the territorial limits of the City of Walkerville: Beginning at the northwest corner Section 2, T. 3N., R. 8 W.; thence easterly to northeast corner Section 5, T. 3N., R. 7 W.; thence southerly to northwest corner Section 9, T. 3N., R. 7 W.; thence easterly to northeast corner Section 10, T. 3N., R. 7 W.; thence southerly to southeast corner Section 22, T. 2N., R. 7 W.; thence westerly to southwest corner Section 19, T. 2N., R. 7 W.; thence northerly to northwest corner Section 19, T. 2N., R. 7 W.; thence westerly to southwest corner Section 14, T. 2N., R. 8 W.; thence northerly to southwest corner Section 35, T. 3N., R. 8 W.; thence westerly to southwest corner Section 34, T. 3N., R. 8 W.; thence northerly to northwest corner Section 27, T. 3N., R. 8 W.; thence westerly to southwest corner Section 20, T. 3N., R. 8 W.; thence northerly to northwest corner Section 17, T. 3N., R. 8 W.; thence easterly to northwest corner Section 14, T. 3N., R. 8 W.; thence northerly to the point of beginning.~~

2.In those areas within ~~Butte Silver Bow~~ the City-County outside of the ~~area~~ district described by ordinance as provided above, the Council of Commissioners shall levy such taxes for fire protection as are required to pay for the services rendered~~.~~ , as required by law.

~~(i) Prior to July 1, 1977, the fire coordinator shall submit to the council of commissioners a proposed ordinance for:~~

~~1. a plan of response procedures for maximum effective utilization of manpower and equipment available within the area described in Section 7.03(h) of this article.~~

~~2. ways to improve inter departmental communications.~~

(j h) 1. Any ordinance changing boundaries of existing fire districts or reallocating fire fighting equipment shall require an affirmative vote by two-thirds (2/3) of the whole number of the Council of Commissioners. ~~Butte Silver Bow shall succeed to the liabilities of any volunteer fire district within the area described in Section 7.03 of this article. This shall be construed to apply to the payment of outstanding indebtedness for existing equipment within affected volunteer fire districts at the time of the adoption of~~

~~this charter.~~

2. The Council of Commissioners shall hold at least one (1) public hearing as specified by the laws of Montana prior to a boundary change of any fire district. The Council of Commissioners shall cause to be published notice of such hearing as specified by the laws of Montana.

SECTION 7.04 - LAND RECORDS SYSTEM

The Council of Commissioners shall establish by ordinance a Land Records System within the office of the Clerk and Recorder.

Section 7.05 - FINANCE AND BUDGET SYSTEM

The Council of Commissioners shall establish by ordinance a Finance and Budget System.

Section 7.06 - PERSONNEL SYSTEM

(a) The Council of Commissioners shall establish a City-County personnel system which shall provide for hiring and promotion of local government employees on the basis of qualifications and merit.

(b) The personnel system shall provide for job training, vacation, sick leave, insurance and other benefits for employees; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an equitable personnel system. All of the above provisions may be set forth in the Administrative Code.

ARTICLE VIII

SERVICE AND TAXING DISTRICTS

SECTION 8.01

(a) The ~~council of commissioners~~ City-County may levy such taxes as are ~~presently~~ permitted by state law for the operation of county governments, which taxes shall be levied on all property within the territorial limits of ~~Silver Bow County, Montana.~~ the City-County.

(b) In addition, the ~~council of commissioners~~ City-County may levy such taxes as are ~~presently~~ permitted by state law for the operation of city governments, which taxes may be levied on all property within the ~~County of Silver Bow~~ City-County except the area within the territorial limits of the ~~City~~ Town of Walkerville. ~~The Council of~~

~~Commissioners shall divide the jurisdictional area into districts and levy such taxes in said districts in proportion to the services rendered by the government in said districts.~~

~~Special taxes now levied for the Silver Bow County Metropolitan Sanitary and Storm Sewer District shall continue to be levied in accordance with the resolution creating said district, and maintenance charges shall be levied by the council of commissioners.~~

~~All existing special improvement districts, lighting districts, and garbage collection districts, shall continue to exist and levies for such special services shall continue to be the obligation of the owners of the property beneficially served in said districts, provided that the council of commissioners may change the boundaries or abolish garbage districts.~~

ARTICLE IX

NOMINATIONS AND ELECTIONS

SECTION 9.01 - ELECTED OFFICERS

The procedure for the nomination and election of all elected ~~officials~~ officers shall be as prescribed by state law for nonpartisan. These elections shall be held in conjunction with state elections.

SECTION 9.02 - COUNCIL OF COMMISSIONERS DISTRICTS

~~On April 5, 1977, there~~ There shall be elected by district ~~eleven (11)~~ twelve (12) members of the Council of Commissioners. ~~The twelfth (12th) member shall be the county commissioner who was elected on November 7, 1972, who shall represent the district in which he resides because of the provisions of Section Six (3) of the transition schedule of the 1972 Montana Constitution. Two members shall be elected from five (5) council of commissioner districts set forth in transition provisions of this charter, and one from the district in which the aforementioned county commissioner resides. All twelve (12) members shall serve a term ending on the first Monday January, 1979.~~

~~In 1978 there shall be elected two members from each of said districts who shall serve staggered terms of two and four years and the persons so elected shall draw lots to establish their respective terms of office. One of such persons shall serve the four year term, ending on the first Monday of January, 1983, and the other a two year term ending on the first Monday of January, 1981. In 1980, six (6) members of the council of commissioners shall be elected for a two year term.~~

~~Prior to the primary election in 1982, the clerk and recorder shall recommend to the council of commissioners twelve (12) separate districts in conformity with Section 9.03 of this charter and~~

~~the 1980 census data.~~

~~In 1982 there shall be elected one member of the council of commissioners from each of these twelve (12) districts. Prior to February 1, 1982, the council of commissioners shall determine by lot six (6) of the twelve (12) districts from which a commissioner shall be elected for a term of four (4) years and in the remaining six (6) districts a commissioner shall be elected for a term of two (2) years.~~

~~At the election in 1982, six (6) members of the council of commissioners shall be elected for four (4) years and six (6) members shall be elected for two (2) years, and thereafter at an election held every two (2) years, six (6) commissioners shall be elected for a term of four (4) years.~~

SECTION 9.03 - REAPPORTIONMENT OF COUNCIL OF COMMISSIONERS DISTRICTS

(a) Council of Commissioners districts shall be of as nearly equal population as possible and shall be reapportioned ~~Within~~ within six (6) months after an official United States Census. ~~establishes that the population of any district differs in number from the average population of all districts by more than ten percent (10%), the Council of Commissioners shall modify the boundaries of districts so that such difference is eliminated.~~

(b) For the purposes of this section, the six-month period shall begin within six (6) months after the Montana Legislature completes its reapportionment and upon the availability of the most recent census and legislative reapportionment data.

(c) If the Council of Commissioners fails to perform the modifications required by subsection (a) of this section within the specified time, the members of the Council of Commissioners shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to those modifications.

SECTION 9.04 - REDISTRICTING

District boundaries shall be changed by ordinance, provided that such revised district's boundaries must comply with the population standards prescribed in Section 9.03 of this Charter. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the local government.

ARTICLE X

MISCELLANEOUS PROVISIONS

SECTION 10.01 - AMENDMENT OF CHARTER

This Charter may be amended only as prescribed by state law.

SECTION 10.02 - EFFECTIVE DATE

This amended Charter shall become effective on ~~May 2, 1977.~~ July 1, 1996 and the transition schedule set forth in Article XI shall apply.

SECTION 10.03 - SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 10.04 - INITIATIVE, REFERENDUM AND RECALL

(a) The state law shall establish the election, initiative and referendum procedures to be followed by the local government.

(b) The state law shall establish the procedure for the recall of elected officers of the local government.

SECTION 10.05 - ORDINANCES

Each ordinance, except general appropriation ordinances and ordinances for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any ordinance is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void. An ordinance may be challenged on the grounds of non-compliance with this section only within two (2) years after its effective date.

SECTION 10.06 - ~~ANNUAL COMPILATION OF LAWS~~ REGISTER OF ORDINANCES, ANNUAL PUBLICATION OF UNIFORM MUNICIPAL CODE AND ADMINISTRATIVE CODE

~~As soon as practicable after June 30 of each year, the local government shall have published a compilation with index, which shall include all legislation and all rules and regulations of a general or permanent nature adopted or approved by the council of commissioners or chief executive during the preceding fiscal year.~~

(a) There shall be maintained a register of ordinances in which all ordinances are entered in full after passage and approval, except when a code is adopted by reference. When a code is adopted by reference, the date and source of the code shall be entered.

(b) Appropriate ordinances shall be compiled into a uniform municipal code and published at least annually.

(c) The Council of Commissioners shall adopt by ordinance an Administrative Code establishing regulations setting forth policies in the following areas: 1) procurement and central purchasing, 2) supervision and discipline of personnel, 3) safety, 4) capital improvements and 5) such other regulations as the Council shall determine necessary.

~~SECTION 10.07 - EXISTING EMPLOYEES~~

~~The adoption of this Charter, or any provision thereof, shall not of itself affect the tenure, term or compensation of any appointed officer or employee of the local government then holding a position, except as otherwise provided in this charter; however, the local government may exercise any power of a public employer with regard to its employees.~~

SECTION ~~10.08~~ 10.07 - EMPLOYMENT POLICY

The City-County is committed to providing equal employment opportunity to all its employees and applicants for employment.

SECTION ~~10.09~~ 10.08 - ELECTED ~~OFFICIAL'S~~ OFFICER'S SALARIES

There shall be no reduction in the specified salary of any elected ~~official~~ officer during ~~his~~ the term of office.

ARTICLE XI

TRANSITION PROVISIONS

The following provisions shall remain part of this Charter until their terms have been executed. Once each year the County Attorney shall review the following provisions and certify to the Clerk and Recorder and the Secretary of State which, if any, have been executed. Any provisions so certified shall thereafter be removed from this schedule and no longer published as part of this Charter.

SECTION 11.01 - GENERAL TRANSITION

The rights and duties of all City-County bodies shall remain as if this Charter had not been adopted with the exception of such changes as are contained in this Charter. All ordinances,

resolutions and regulations not contrary to, or inconsistent with, the provisions of this Charter shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to law or this Charter. The validity of all City-County bonds, debts and contracts, and of all suits, actions and rights of action, shall continue as if no change had taken place.

SECTION 11.02 - TERMS OF ELECTED OFFICE

Those elected officers of the executive branch enumerated in section 5.01 whose offices will no longer be included as a separate elected office, as determined by the voters at the June 4, 1996 election, may continue in office and in the performance of their duties until January 6, 1997 whereupon their office shall be abolished as a separate elected office.

SECTION 11.03 - ELECTION OF OFFICERS

If the electorate chooses Option 1 in Section 9.01 "Partisan Elections", this provision shall take effect January 1, 1997.

SECTION 11.04 - FINANCE AND BUDGET SYSTEM

On or before December 31, 1996 the Council of Commissioners shall establish by ordinance a Finance and Budget System.

SECTION 11.05 - PERSONNEL SYSTEM AND EMPLOYMENT POLICY

On or before December 31, 1996 the Council of Commissioners shall establish by ordinance a Personnel System and Employment Policy.

SECTION 11.06 - ADMINISTRATIVE CODE

On or before December 31, 1997 the Council of Commissioners shall establish by ordinance an Administrative Code.

SECTION 11.07 - LAND RECORDS SYSTEM

On or before December 31, 1998 the Council of Commissioners shall establish by ordinance a Land Records System within the Clerk and Recorder's Office.

~~SECTION 11.01 Transition to this charter form of government shall be as prescribed by state law. The council of commissioners may provide for such transition by ordinance, rule or resolution not inconsistent with state law. The provisions of this transition article shall not be valid after July 1, 1982.~~

~~SECTION 11.02 – COUNCIL OF COMMISSIONERS DISTRICTS~~

~~(a) Council of commissioners districts shall initially consist of six (6) double member districts until modified in accordance with the provisions of this charter. Council of commissioners districts shall conform to the existing state legislative districts of Silver Bow County as the same are recorded and described in the office of the clerk and recorder.~~

~~(b) Prior to the primary election in 1982, the county clerk and recorder shall establish 12 separate council of commissioners districts, in conformity with the standards provided by Section 9.03 of this charter.~~

~~SECTION 11.03 – INITIAL TERM OF ELECTED EXECUTIVE OFFICERS~~

~~The initial term of office for the chief executive, attorney, clerk and recorder, clerk of the district court, sheriff, superintendent of schools, assessor, coroner, public administrator, auditor and treasurer shall be from May 2, 1977 to the first Monday of January in 1981.~~

~~SECTION 11.04 – BOARDS, COMMISSIONS AND AUTHORITIES~~

~~All boards and authorities shall be maintained subject to budgetary, functional and organizational review by the council of commissioners. This review shall be accomplished by June 30, 1979.~~

~~SECTION 11.05 – TRANSITIONAL SALARIES OF ELECTED OFFICIALS~~

~~The salaries of all elected officials shall be as provided by ordinance; however, for the initial term of office, elected officials shall be compensated annually according to the following provisions:~~

~~(a) Chief executive, $26,000; sheriff, $17,500; coroner, $4,700; and the auditor, treasurer, clerk and recorder, superintendent of schools, and the clerk of the district court shall receive $14,200. The public administrator shall receive such compensation as is provided for that office by state law.~~

~~(b) The county attorney shall receive $25,000, to be paid in accordance with the applicable sections of state law for full-time county attorneys in counties with populations greater than 30,000 residents.~~

~~(c) Members of the council of commissioners shall receive $150.00 per month. In addition to their monthly salary, members of the council of commissioners shall receive $50.00 per month as reimbursement for travel expenses.~~

~~(d) The chairman of the council of commissioners shall receive such additional compensation as is determined by the council of commissioners.~~

~~SECTION 11.06 - DEBT RESPONSIBILITY~~

~~Butte-Silver Bow shall be vested with the title to, and shall own and control all rights and property, both real and personal, of every kind and description, which are now owned by Silver Bow County and the City of Butte on the effective date of this charter. It shall also assume and pay all debts, obligations and liabilities, both contractual and otherwise incurred by Silver Bow County and the City of Butte, provided that all bond or special fund indebtedness not a general obligation of the former governments shall continue to be payable in accordance with the terms of the instruments creating such indebtedness by the persons obligated thereon.~~

~~SECTION 11.07 - TRANSITION SUGGESTIONS~~

~~Members of the local government study commissions within Butte-Silver Bow shall initiate plans of transition and implementation for the new unit of local government and shall serve in an advisory capacity between November 2, 1976 and May 2, 1977.~~

We, the Study Commission of Butte-Silver Bow, do hereby certify that this is the official proposed amended charter of Butte-Silver Bow approved by the Study Commission of Butte Silver-Bow.

SEAL

In testimony whereof, we set our hands.

Done at Butte, Montana this 19th day of March, 1996.

ATTEST: Barbara Sullivan
Barbara Sullivan
Clerk and Recorder

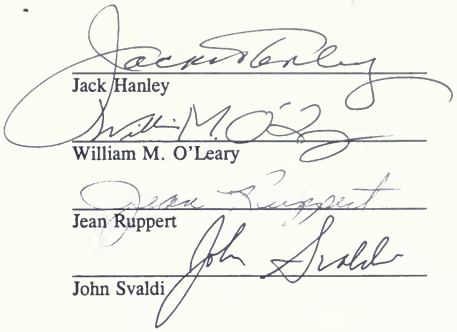
James F. Michelotti, Chairman

Ted Bury, Sr.

Ron Cass

Phyllis P. Egan

Jim Fabatz



Jack Hanley

William M. O'Leary

Jean Ruppert

John Svaldi

CERTIFICATE

ESTABLISHING THE PROPOSED AMENDED CHARTER

FOR THE

CONSOLIDATED GOVERNMENT OF BUTTE-SILVER BOW

CHARTER

PREAMBLE

WE, THE PEOPLE of the City and County of Butte-Silver Bow, State of Montana, in accordance with Article XI, Section 5 of the Montana Constitution and the laws of the State of Montana, recognizing the unique characteristics of our community and in order to improve the quality of life for these and future generations, do adopt this Charter of the City and County of Butte-Silver Bow, State of Montana.

ARTICLE I

NAME AND BOUNDARIES

SECTION 1.01 - NAME

The consolidated local government will be known by name as "the City and County of Butte-Silver Bow, Montana, a municipal corporation and political subdivision of the State of Montana" and may be referred to as the City-County or Butte-Silver Bow City-County.

SECTION 1.02 - JURISDICTION

(a) As a political subdivision of the state, the consolidated unit of local government shall have the status of a county and an incorporated municipality for all purposes and shall replace and be the successor of Silver Bow County and the City of Butte.

(b) COUNTY POWERS

The consolidated local government shall have and may exercise all powers that are conferred on counties by Montana law throughout the territorial limits of the consolidated City and County.

(c) MUNICIPAL POWERS

The consolidated local government shall have and may exercise all municipal powers that

are conferred on cities by Montana law; provided, however, that the consolidated local government may not exercise municipal powers within the Town of Walkerville, Montana without the consent of the Town of Walkerville.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01 - POWERS OF THE GOVERNMENT

The City-County shall have self-government powers as provided by Article XI, Sections 5 and 6 of the Montana Constitution and Part 1 of Chapter 1 of Title 7 of the Montana Code Annotated and may exercise any power not prohibited by the constitution, law, or this Charter. These powers include but are not limited to the powers granted to general power governments.

SECTION 2.02 - LIMITATIONS

(a) Limitations on self-government powers shall be as set forth in Part 1 of Chapter 1 of Title 7 of the Montana Code Annotated.

(b) In addition, the City-County shall not authorize a local sales or income tax until it is approved by a vote of the people.

SECTION 2.03 - CHARTER SUPREMACY

As provided by Article XI, Section 5 of the Constitution of the State of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

SECTION 2.04 - INTERPRETATION OF POWERS

The powers and authority of this self-government unit shall be liberally construed. Every reasonable doubt as to the existence of this government's power shall be resolved in favor of the existence of that power or authority.

SECTION 2.05 - OATH OF OFFICE

All City-County elected and appointed officers shall take and subscribe the following oath or affirmation, before they enter upon the duties of their offices:

> "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, the Constitution of the State of Montana, and the Charter of the City-County of Butte-Silver Bow, and that I will discharge the

duties of my office with fidelity (so help me God)."

ARTICLE III

LEGISLATIVE POWERS

SECTION 3.01 - POWERS AND STRUCTURE

The legislative power of the City-County is vested in a Council of Commissioners and may be exercised only by ordinance or resolution.

SECTION 3.02 - ORGANIZATION

Except as otherwise provided by this Charter, the composition, qualification, elections, terms, vacancies, forfeiture, removal and compensation of the members of the council of commissioners shall be as specified by the following provisions:

(a) COMPOSITION

There shall be a Council of Commissioners of the City-County composed of twelve (12) members, at least six (6) of whom shall be elected every two (2) years.

(b) QUALIFICATION

A candidate for the Council of Commissioners shall be a qualified elector and resident of the City-County for at least one (1) year preceding the date the candidate files a nominating petition and must be a resident of the district for six (6) months. No member of the Council of Commissioners shall hold any other elective public office or be employed by the City-County. A member of the Council of Commissioners must maintain residency in the district during the entire term.

(c) ELECTION

As provided in Article IX of this Charter, all twelve (12) members of the Council of Commissioners shall be nominated and elected by district.

(d) TERMS

Members of the Council of Commissioners shall be elected for staggered terms of four (4) years.

(e) VACANCIES

1. A vacancy in the Council of Commissioners shall exist upon death, resignation or removal from office in any manner authorized by law, or the forfeiture of office by a member.

2. In the event a vacancy exists in any of the elected council seats, the Council of Commissioners shall appoint within sixty (60) days a qualified successor to the member whose seat is vacant. Such appointee shall be a qualified elector and resident in the district where the vacancy occurred for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill the remainder of the original term.

(f) FORFEITURE

A member of the Council of Commissioners shall forfeit the office upon moving from the district, if the election or appointment is declared invalid, or upon conviction of theft, bribery, perjury, official misconduct or any felony.

(g) REMOVAL

The Council of Commissioners shall judge the election and qualifications of its members and may censure a member for good cause by a two-thirds (2/3) vote of all its members.

(h) COMPENSATION

The Council of Commissioners shall set by ordinance the annual salary of its members.

SECTION 3.03 - POWERS AND DUTIES OF THE COUNCIL OF COMMISSIONERS

The Council of Commissioners shall be the legislative and policy determining body of the City-County. Except as otherwise provided by this Charter, the Council of Commissioners shall have all legislative powers and duties conferred on counties and cities which include but are not limited to, the power and duty:

(a) to adopt ordinances and resolutions;

(b) to establish and prescribe the functions of departments, offices or agencies by ordinance or resolution in addition to those created by this Charter;

(c) to employ an attorney for purposes which the Council of Commissioners deems necessary;

(d) to provide for an independent audit of the finances of the local government;

(e) to authorize community councils to advise the Council of Commissioners;

(f) to adopt an administrative code to establish duties consistent with law and to establish and regulate administrative procedures of appointed and elected officers;

(g) to discharge all legislative duties required by state law for boards of county commissioners in county governments and of city councils in city governments;

(h) to adopt by ordinance either county or municipal provisions as set forth in state law for finance, accounting, budget, elections, issuance of bonds, creation of special districts, levying of taxes, planning and zoning, and provision of services. The Council shall provide that all functions mandated upon either cities or counties shall be complied with.

(i) to approve the budget; however, the Council of Commissioners shall not levy in excess of the maximum number of mills provided by state law for the operation of unified local governments with general government powers. Should an increase in mill levies greater than the maximum number provided by state law be deemed necessary, said increase must be submitted to, and approved by a majority of the electorate voting on the question.

(j) to eliminate a local office or department by ordinance if state law eliminates such local office or department or if state law changes the name of a local office or department, the Council of Commissioners may change the name appropriately by ordinance, all without the necessity of amending this Charter.

(k) to cooperate and enter into agreements with other governmental units and agencies.

SECTION 3.04 - RESTRICTIONS ON THE COUNCIL OF COMMISSIONERS

Except for the purpose of inquiry or investigation under this Charter or the Administrative Code, the Council of Commissioners or its members shall deal with local government employees who are subject to the direction and supervision of any elected or appointed officer, solely through the appropriate elected or appointed officer and neither the Council of Commissioners nor its members may give orders to any such employee, either publicly or privately.

SECTION 3.05 - COUNCIL OF COMMISSIONERS PROCEDURE, PUBLIC PARTICIPATION

(a) The legislative procedure of the Council of Commissioners shall be as prescribed by state law.

(b) The Council of Commissioners shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings by the Clerk and Recorder.

(c) The Council of Commissioners shall have a chair and a vice-chair who shall be elected by the members of the Council of Commissioners from their own number for a term established by ordinance.

(d) The presiding officer for all regular and special meetings of the Council of Commissioners shall be the Chief Executive who shall decide all tie votes of the Council of Commissioners but shall have no other vote.

(e) The Council of Commissioners shall meet at least twice monthly and all meetings shall be open to the public except in such circumstances as are prescribed in state law.

(f) All documents and records of the Council of Commissioners shall be public records and shall be made available for examining or copying.

ARTICLE IV

CHIEF EXECUTIVE

SECTION 4.01

(a) QUALIFICATIONS, ELECTIONS

The Chief Executive, who shall be a qualified elector and resident of the City-County for at least one (1) year before filing a nominating petition, shall be nominated and elected at-large by the qualified electors of the City-County. The Chief Executive shall not hold any other elective public office or be employed by anyone other than the City-County. The Chief Executive must maintain residency within the City-County during the entire term.

(b) TERM

The Chief Executive shall be elected for a term of four (4) years.

(c) VACANCIES

1. A vacancy in the office of Chief Executive shall exist upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in the office of Chief Executive, the Council of Commissioners shall appoint within sixty (60) days a qualified successor to the person who vacated the office. Such appointee shall be a qualified elector and resident within the City-County for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill

the remainder of the original term. The Chair of the Council of Commissioners shall serve as acting Chief Executive until the vacancy is filled.

(d) FORFEITURE

The office of Chief Executive shall be deemed vacant or forfeit for the same reasons that a council seat shall be deemed vacant or forfeited as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

The Chief Executive shall be subject to removal in accordance with State law.

(f) COMPENSATION

The salary of the Chief Executive shall be established by an ordinance enacted by the Council of Commissioners.

SECTION 4.02 - POWERS AND DUTIES OF THE CHIEF EXECUTIVE

(a) The executive and administrative power of the City-County is vested in the Chief Executive.

(b) The Chief Executive shall:

1. enforce ordinances, resolutions and laws;
2. perform duties required by law, ordinance, resolution and this Charter;
3. administer affairs of the local government;
4. carry out policies established by the Council of Commissioners;
5. recommend measures to the Council of Commissioners;
6. report to the Council of Commissioners and the public on the affairs of the local government;
7. execute bonds, notes, contracts and written obligations of the government, subject to the approval of the Council of Commissioners;
8. report to the Council of Commissioners as the Council may require;
9. attend meetings of the Council of Commissioners and may take part in discussion;

10. execute the budget adopted by the Council of Commissioners;

11. appoint, with the advice and consent of the Council of Commissioners, all members of boards, commissions and authorities; except, the Chief Executive may appoint without the advice and consent of the Council of Commissioners temporary advisory committees established by the Chief Executive;

12. prepare and provide to the Council of Commissioners and the public an annual report setting forth the activities and accomplishments of the local government;

13. prepare and provide to the Council of Commissioners and the public interim and annual financial information, reported in a manner that presents fairly the financial position and results of operations of the City-County.

(c) The Chief Executive may appoint one administrative aide, qualified by training or experience, to assist in the supervision and operation of the local government; however, this section shall not affect the appointment of department heads which shall be done pursuant to Section 4.02 (d) of this Charter. Such administrative aide shall be answerable solely to the Chief Executive.

(d) The Chief Executive shall appoint with the advice and consent of the Council of Commissioners all non-elected department heads who shall serve at the pleasure of the Chief Executive. The Chief Executive shall have the power to hire and fire all other employees of the local government with the exception of those employees hired by other elected officers and those who have gained tenure as defined by statute or ordinance; however, the Chief Executive may discharge tenured employees for cause as provided in state law.

(e) The Chief Executive may veto ordinances and resolutions subject to override by a two-thirds (2/3) vote of the whole Council of Commissioners.

(f) The Chief Executive shall prepare the budget in consultation with elected and appointed department heads and submit it to the Council of Commissioners for adoption.

(g) The Chief Executive shall exercise control and supervision of all appointed departments and boards to the degree authorized by ordinance of the Council of Commissioners.

(h) It shall be the duty and responsibility of the Chief Executive to require the faithful execution of this Charter, ordinances, resolutions and laws by all elected and appointed officers.

(i) The Chief Executive shall be responsible for coordinating policies of the Council of Commissioners with all elected and appointed department heads.

ARTICLE V

EXECUTIVE BRANCH

SECTION 5.01 - EXECUTIVE OFFICERS

In addition to the Chief Executive, the executive branch includes the following officers:

(a) County Attorney
(b) Clerk and Recorder
(c) Clerk of the District Court
(d) Superintendent of Schools
(e) Sheriff
(f) Assessor
(g) Coroner
(h) Public Administrator
(i) Auditor
(j) Treasurer

Each of the foregoing officers shall be nominated and elected at-large by the qualified electors of the City-County, except those officers whose continuation as a separate elected office is to be determined by the voters at the June 4, 1996 election.

SECTION 5.02 - ELECTION, VACANCIES, COMPENSATION PROVISIONS

(a) QUALIFICATION, ELECTIONS

1. A candidate for any of the foregoing offices shall be a qualified elector and resident of the City-County for at least one (1) year prior to filing a nominating petition.

2. In addition to the foregoing qualifications, a candidate shall have all education, training and experience required by state law for the respective office.

3. No person holding any of the above offices shall hold any other elective public office.

4. Each elected officer must maintain residency within the City-County during the entire term.

(b) TERM

The term for each of said offices shall be four (4) years.

(c) VACANCIES

1. A vacancy in any of said offices shall exist upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in any of said offices, the Council of Commissioners shall appoint within sixty (60) days a qualified successor to the person who vacated the office. Such appointee shall be a qualified elector and resident within the City-County for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill the remainder of the original term.

3. The Council of Commissioners shall appoint a person to serve as the acting officer until the vacancy is filled.

(d) FORFEITURE

Any of said offices shall be deemed vacant or forfeit for the same reason that a council seat shall be deemed vacant or forfeit as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

Each elected officer shall be subject to removal in accordance with State law.

(f) COMPENSATION

Each of said officers shall receive salaries provided by an ordinance enacted by the Council of Commissioners.

SECTION 5.03 - APPOINTMENT OF DEPUTIES

Each elected officer entitled by ordinance to appoint a deputy or deputies shall appoint such deputy or deputies.

SECTION 5.04 - POWERS AND DUTIES OF ELECTED OFFICERS

The County Attorney shall be the chief legal officer of the local government and along with the other officers enumerated in Section 5.01 shall have the power and duties provided by this Charter, law, ordinance or resolution.

SECTION 5.05 - LAW ENFORCEMENT DEPARTMENT

The Sheriff shall be the chief law enforcement administrative officer of the government and shall have the duties and powers provided by this Charter, law, ordinance or resolution subject to the

following provisions:

(a) There shall be a Law Enforcement Department under the control and supervision of the Sheriff.

(b) All appointments to the Law Enforcement Department shall be made pursuant to the Municipal Police Law of the state, except:

1. That the Sheriff shall have the powers therein given to the Mayor in a mayor-council form of municipal government, the Council of Commissioners shall have the powers of the city council, and the Clerk and Recorder shall have the powers of the city clerk, and;

2. Members of the department may be candidates for any elected office and may participate in political activities notwithstanding the provisions of the Municipal Police Law of the state.

(c) The Council of Commissioners shall establish by ordinance a Law Enforcement Commission consisting of five (5) members which shall have the powers and perform the duties required of police commissions by the Municipal Police Law and such other duties as the ordinance may provide.

(d) The Sheriff may appoint an Undersheriff who shall be a person, qualified by training and experience, to assist in supervision and operation of the department. Such Undersheriff shall be answerable to the Sheriff and shall not be subject to the approval of the Law Enforcement Commission or the Council of Commissioners. Such appointee shall acquire no vested rights as a confirmed officer in the Law Enforcement Department; provided, however, that if the appointee was a confirmed officer in the department at the time of appointment as Undersheriff, those rights shall be protected and retained. If such appointee was a confirmed officer in the department prior to appointment as Undersheriff and not continued in such position by the Sheriff, the appointee shall revert to the former rank held within the department. All other positions within the department shall be established by such ordinances as the Council of Commissioners shall adopt.

ARTICLE VI

JUDICIARY

SECTION 6.01 - JUSTICE COURT

The Council of Commissioners shall establish Justice Courts as provided by state law. Justices of the peace shall be elected as provided by state law and shall receive a salary fixed by ordinance.

SECTION 6.02 - CITY COURT

(a) A City Court shall have the jurisdiction provided by state law throughout the jurisdictional area of the City-County excluding that area within the territorial limits of the Town of Walkerville. If the Town of Walkerville requests the City-County to enforce specific ordinances within Walkerville, then the City Court shall have jurisdiction within the Town of Walkerville for such purposes.

(b) The City Judge shall be elected in the manner and for the term provided by state law and shall receive a salary fixed by ordinance.

(c) The City-County may establish such other courts of inferior jurisdiction as maybe permitted by law.

ARTICLE VII

ADMINISTRATIVE DEPARTMENTS

SECTION 7.01 - GENERAL

The powers and duties of the City-County shall be distributed among such departments, agencies and offices as are established by this Charter or may be established thereunder by ordinance of the Council of Commissioners in order to execute and enforce policy as is determined by that body and to carry out obligations imposed on the City-County by state law; among such departments shall be:

SECTION 7.02 - PUBLIC WORKS DEPARTMENT

(a) There shall be a Public Works Department which shall be charged with the responsibility and administration of engineering; streets, roads and other public right-of-way; water and sewer; solid waste collection and disposal; parks and recreation; and maintenance and operation of related equipment.

(b) The Chief Executive shall appoint, with the consent of the Council of Commissioners, a Public Works Director qualified by training or experience. Such director shall serve at the pleasure of the Chief Executive.

(c) The Council of Commissioners may establish by ordinance additional responsibilities for the Public Works Department.

SECTION 7.03 - FIRE DEPARTMENT

(a) There shall be a Fire Department which shall be composed of the paid Fire Department and Volunteer Fire Departments in the City-County.

(b) Except as otherwise provided by this Charter or until changed by ordinance, the organization, qualifications and appointment of officers and members of the paid Fire Department shall be governed by the provisions of the Montana Municipal Fire Department Law, except that the Chief Executive shall have the powers and duties of a Mayor and the Council of Commissioners shall have the powers and duties of a city council as provided in said state law and the Fire Commission shall have those powers and duties as set forth in subsection 7.03(c).

(c) The Council of Commissioners shall establish by ordinance a Fire Commission consisting of five (5) members, which shall have the power and duty to:

(i) test applicants for appointment to the paid Fire Department; and

(ii) test firefighters for promotion within the paid Fire Department; and

(iii) test applicants for appointment as Director of Fire Services; and

(iv) hear, try and decide all charges brought against any member of the paid Fire Department and such other duties as the ordinance may provide.

(d) Except as otherwise provided by this Charter or until changed by ordinance, the organization of existing Volunteer Fire Departments within the City-County shall be governed by the applicable sections of state law, except that the Chief Executive shall have the executive and administrative powers and duties of the Chair of the Board of County Commissioners and the Council of Commissioners shall have the legislative powers and duties of the Board of County Commissioners as provided in said state law.

(e) The Chief Executive shall appoint an advisory committee composed of three paid firefighters selected by the members thereof, three volunteer firefighters selected by the Volunteer Fire Council, and three members of the Council of Commissioners, who shall be selected by the Council; however, no member of the Council of Commissioners appointed to this advisory committee shall currently be a firefighter. This advisory committee shall study and recommend to the Director of Fire Services ways and means of improving fire protection, suppression and related activities.

(f) The paid Fire Chief shall be the Director of Fire Services and shall be responsible for the administrative coordination and combination of the paid and Volunteer Fire Departments, fire prevention and code enforcement.

(g) 1. The Council of Commissioners shall establish by ordinance a district for fire protection services, excluding that area within the Town of Walkerville. Within this district there shall be a uniform tax levy for fire protection services.

2. In those areas within the City-County outside of the district described by ordinance

as provided above, the Council of Commissioners shall levy such taxes for fire protection as are required to pay for the services rendered, as required by law.

(h) 1. Any ordinance changing boundaries of existing fire districts or reallocating fire fighting equipment shall require an affirmative vote by two-thirds (2/3) of the whole number of the Council of Commissioners.

2. The Council of Commissioners shall hold at least one (1) public hearing as specified by the laws of Montana prior to a boundary change of any fire district. The Council of Commissioners shall cause to be published notice of such hearing as specified by the laws of Montana.

SECTION 7.04 - LAND RECORDS SYSTEM

The Council of Commissioners shall establish by ordinance a Land Records System within the office of the Clerk and Recorder.

SECTION 7.05 - FINANCE AND BUDGET SYSTEM

The Council of Commissioners shall establish by ordinance a Finance and Budget System.

SECTION 7.06 - PERSONNEL SYSTEM

(a) The Council of Commissioners shall establish a City-County personnel system which shall provide for hiring and promotion of local government employees on the basis of qualifications and merit.

(b) The personnel system shall provide for job training, vacation, sick leave, insurance and other benefits for employees; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an equitable personnel system. All of the above provisions may be set forth in the Administrative Code.

ARTICLE VIII

SERVICE AND TAXING DISTRICTS

SECTION 8.01

(a) The City-County may levy such taxes as are permitted by state law for the operation of county governments, which taxes shall be levied on all property within the territorial limits of the City-County.

(b) In addition, the City-County may levy such taxes as are permitted by state law for the operation of city governments, which taxes may be levied on all property within the City-County except the area within the territorial limits of the Town of Walkerville.

ARTICLE IX

NOMINATIONS AND ELECTIONS

SECTION 9.01 - ELECTED OFFICERS

The procedure for the nomination and election of all elected officers shall be as prescribed by state law for nonpartisan elections. These elections shall be held in conjunction with state elections.

SECTION 9.02 - COUNCIL OF COMMISSIONERS DISTRICTS

There shall be elected by district twelve (12) members of the Council of Commissioners.

SECTION 9.03 - REAPPORTIONMENT OF COUNCIL OF COMMISSIONERS DISTRICTS

(a) Council of Commissioners districts shall be of as nearly equal population as possible and shall be reapportioned within six (6) months after an official United States Census.

(b) For the purposes of this section, the six-month period shall begin within six (6) months after the Montana Legislature completes its reappointment and upon the availability of the most recent census and legislative reapportionment data.

(c) If the Council of Commissioners fails to perform the modifications required by subsection (a) of this section within the specified time, the members of the Council of Commissioners shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to those modifications.

SECTION 9.04 - REDISTRICTING

District boundaries shall be changed by ordinance, provided that such revised district's boundaries must comply with the population standards prescribed in Section 9.03 of this Charter. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the local government.

ARTICLE X

MISCELLANEOUS PROVISIONS

SECTION 10.01 - AMENDMENT OF CHARTER

This Charter may be amended only as prescribed by state law.

SECTION 10.02 - EFFECTIVE DATE

This amended Charter shall become effective on July 1, 1996 and the transition schedule set forth in Article XI shall apply.

SECTION 10.03 - SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 10.04 - INITIATIVE, REFERENDUM AND RECALL

(a) The state law shall establish the election, initiative and referendum procedures to be followed by the local government.

(b) The state law shall establish the procedure for the recall of elected officers of the local government.

SECTION 10.05 - ORDINANCES

Each ordinance, except general appropriation ordinances and ordinances for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any ordinance is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void. An ordinance may be challenged on the grounds of non-compliance with this section only within two (2) years after its effective date.

SECTION 10.06 - REGISTER OF ORDINANCES, ANNUAL PUBLICATION OF UNIFORM MUNICIPAL CODE AND ADMINISTRATIVE CODE

(a) There shall be maintained a register of ordinances in which all ordinances are entered in full after passage and approval, except when a code is adopted by reference. When a code is adopted by reference, the date and source of the code shall be entered.

(b) Appropriate ordinances shall be compiled into a uniform municipal code and published

at least annually.

(c) The Council of Commissioners shall establish by ordinance an Administrative Code establishing regulations setting forth policies in the following areas: 1) procurement and central purchasing, 2) supervision and discipline of personnel, 3) safety, 4) capital improvements and 5) such other regulations as the Council shall determine necessary.

SECTION 10.07 - EMPLOYMENT POLICY

The City-County is committed to providing equal employment opportunity to all its employees and applicants for employment.

SECTION 10.08 - ELECTED OFFICER'S SALARIES

There shall be no reduction in the specified salary of any elected officer during the term of office.

ARTICLE XI

TRANSITION PROVISIONS

The following provisions shall remain part of this Charter until their terms have been executed. Once each year the County Attorney shall review the following provisions and certify to the Clerk and Recorder and the Secretary of State which, if any, have been executed. Any provisions so certified shall thereafter be removed from this schedule and no longer published as part of this Charter.

SECTION 11.01 - GENERAL TRANSITION

The rights and duties of all City-County bodies shall remain as if this Charter had not been adopted with the exception of such changes as are contained in this Charter. All ordinances, resolutions and regulations not contrary to, or inconsistent with, the provisions of this Charter shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to law or this Charter. The validity of all City-County bonds, debts and contracts, and of all suits, actions and rights of action, shall continue as if no change had taken place.

SECTION 11.02 - TERMS OF ELECTED OFFICE

Those elected officers of the executive branch enumerated in section 5.01 whose offices will no longer be included as a separate elected office, as determined by the voters at the June 4, 1996 election, may continue in office and in the performance of their duties until January 6, 1997, whereupon their office shall be abolished as a separate elected office.

SECTION 11.03 - ELECTION OF OFFICERS

If the electorate chooses Option 1 in Section 9.01 "Partisan Elections," this provision shall take effect January 1, 1997.

SECTION 11.04 - FINANCE AND BUDGET SYSTEM

On or before December 31, 1996, the Council of Commissioners shall establish by ordinance a Finance and Budget System.

SECTION 11.05 - PERSONNEL SYSTEM AND EMPLOYMENT POLICY

On or before December 31, 1996, the Council of Commissioners shall establish by ordinance a Personnel System and Employment Policy.

SECTION 11.06 - ADMINISTRATIVE CODE

On or before December 31, 1997 the Council of Commissioners shall establish by ordinance an Administrative Code.

SECTION 11.07 - LAND RECORDS SYSTEM

On or before December 31, 1998 the Council of Commissioners shall establish by ordinance a Land Records System within the Clerk and Recorder's Office.

We, the Study Commission of Butte-Silver Bow, do hereby certify that this is the official proposed amended charter of Butte-Silver Bow approved by the Study Commission of Butte Silver-Bow.

SEAL

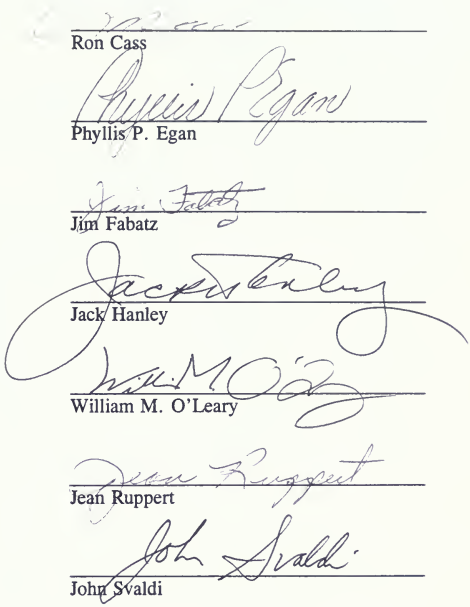
In testimony whereof, we set our hands.

Done at Butte, Montana this 19th day of March, 1996.

Attest: Barbara Sullivan
Barbara Sullivan
Clerk and Recorder

James F. Michelotti, Chairman

Ted Bury Sr
Ted Bury, Sr.



Ron Cass

Phyllis P. Egan

Jim Fabatz

Jack Hanley

William M. O'Leary

Jean Ruppert

John Svaldi

CERTIFICATE

FOR THE APPORTIONMENT OF COMMISSIONER DISTRICTS

Districts described by population and deviation from ideal are shown.

1990 population of Butte-Silver Bow County: 33,941
Mean population of each commissioner district: 2,828

Commissioner District	Population of District	Deviation from Average District Population
1	2781	-1.66%
2	2838	+.35
3	2752	-2.69
4	2789	-1.38
5	2902	+2.62
6	2967	+4.92
7	2782	-1.63
8	2832	+.14
9	2924	+3.39
10	2816	- .42
11	2824	- .14
12	2734	-3.32

We, the Study Commission of Butte-Silver Bow do hereby certify that this is the official apportionment plan for commissioner districts approved by the Butte-Silver Bow, Local Government Study Commission.

In testimony whereof, we set our hands.

Done at Butte-Silver Bow, Montana this 19th day of March, 1996.

SEAL

ATTEST: Barbara Sullivan
Barbara Sullivan, Clerk & Recorder

James F. Michelotti, Chairman

Ted Bury Sr.
Ted Bury, Sr.

Ron Cass

Phyllis P. Egan

Jim Fabatz

Jack Hanley

William M. O'Leary

Jean Ruppert

John Svaldi

CERTIFICATE

ESTABLISHING THE DATE OF THE SPECIAL ELECTION

AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT

SHALL BE PRESENTED TO THE ELECTORS OF

BUTTE-SILVER BOW COUNTY, MONTANA

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of Butte-Silver Bow County at a special election to be held with the primary election on June 4, 1996.

We, the Study Commission of Butte-Silver Bow do hereby certify that this is the date of the special election approved by the Butte-Silver Bow Local Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Butte-Silver Bow, Montana this 19th day of March, 1996.

ATTEST: Barbara Sullivan
Barbara Sullivan, Clerk & Recorder

James F. Michelotti, Chairman

Ted Bury, Sr.

Ron Cass

Phyllis P. Egan

Jim Fabatz

Jack Hanley

William M. O'Leary

Jean Ruppert

John Svaldi

COMPARISON AND EXPLANATION
OF
PROPOSED CHARTER REVISIONS

PREAMBLE

These changes delete the explanation to the voters of the City of Butte and Silver Bow County describing the 1976 proposal to consolidate.

ARTICLE I

NAME AND BOUNDARIES

Section 1.01 - Name

The name was changed to reflect accurately the status of the consolidated government.

Section 1.02 - Jurisdiction

Transition language from 1976 was deleted and current provisions of Montana law were added (7-3-1101 and 1104, MCA).

ARTICLE II

GENERAL PROVISIONS

Section 2.01 - Powers of the Government

Misleading repetitive language was deleted and language added accurately reflecting Montana law (7-1-101, MCA).

Section 2.02 - Limitations

Misleading language which repeated only selective portions of Montana law limiting self-power local governments was deleted and language was added accurately reflecting the source of limitations in state law. Additionally, the requirement that only the voters could approve a local sales tax or income tax was retained (7-1-111 and 112, MCA).

Sections 2.03 and 2.04

Both of these sections were deleted to eliminate confusing language relating to the powers of the Town of Walkerville. The status of Walkerville is more clearly identified in Section 1.02(b) and

(c) and 6.02(a).

Section 2.04

Deleted. See comment for 2.03.

Section 2.05 - Charter Supremacy

Now 2.03. No change.

Section 2.06 - Interpretation of Powers

Now 2.04. No change.

Section 2.07 - Continuance

Deleted. This section contains only transition language from 1976.

Section 2.08 - Oath of Office

Now 2.05. The oath of office from the Montana Constitution is now set out, including reference to this Charter.

Section 2.09 - Election of Local Government Officers

Deleted. This section is deleted since it is unnecessary and repetitive. All provisions for election of local government officers are already set forth in detail in Article IX of the Charter, entitled "Nominations and Elections."

ARTICLE III

LEGISLATIVE POWERS

Section 3.01 - Powers and Structure

Language was changed to reflect the new name of the government.

Section 3.02 - Organization

Language was added to reflect the new name in (a) and (b), to accurately reflect the prohibition on holding other office or City-County employment in (b), to correct inaccurate language in (d) and (e), to clarify (f) and to correct (h), since salary language for elected officers is already set forth in 5.02(f).

Section 3.03 - Powers and Duties of the Council of Commissioners

In the title and the introductory paragraph the name would be changed and legislative powers and duties would be clarified.

New subsection (h) would accurately reflect duties of the Council of Commissioners as set forth in state law (7-1-114, MCA) and subsections (c), (d), (e), and (m) would be deleted as redundant and confusing.

The cap on the mill levy and requirement for voter approval to exceed the cap is now set forth in (i).

New subsection (j) would allow the Council to make appropriate operational adjustments necessitated by the Legislature.

Authority to enter into agreements with other governmental units as provided by law is now set forth in (k).

Section 3.04 - Restrictions on the Council of Commissioners

Subsection (a) is corrected to reflect restrictions on Commissioners contacting employees of either elected or appointed officials or other supervisors and subsections (b) and (c) are deleted since the restricted activity referred to is already prohibited by state law.

Section 3.05 - Council of Commissioners Procedure, Public Participation

In subsection (c) the outdated word "Chairman" is replaced with the current term "Chair." Gender-specific language is deleted throughout the Charter.

Subsection (g) was deleted since reporting financial information is an administrative task and not a legislative function. Financial reporting requirements are added as 4.02(b)(13).

ARTICLE IV

CHIEF EXECUTIVE

Section 4.01 - Qualifications, Elections

Language was added to reflect the new name in subsections (a) and (c)(2), to accurately reflect the prohibition on holding other office or employment in (a), to delete transitional language in (b) and (f) and to correct inaccurate or incomplete language in (a), (c)(2) and (f). Subsection (e) was corrected to accurately reflect State law.

Section 4.02 - Powers and Duties of the Chief Executive

Language was added to reflect the new name of the government in (a), correct the name of the Council of Commissioners in (b)(8) and (10), add "commissions and authorities" and "Chief Executive" in (b)(11), change the word "officials" to "Officers" in (d) and (h) to provide consistency with state law and add "appointed" officers in (h). Subsection (b)(13) was added to provide for reporting of financial information at least annually by the Chief Executive and subsection (b)(6) was amended stylistically to conform with (b)(13).

ARTICLE V

EXECUTIVE BRANCH

Section 5.01

After extensive hearings, the Study Commission determined that the offices of the Superintendent of Schools, Assessor, Public Administrator and Auditor were no longer necessary as elected offices. The function of Assessor as assessor or appraiser was eliminated by state law. The office of Auditor has limited functions because it does not require professional auditing qualifications and its duties could be handled in the existing Finance and Budget system. The functions of the Superintendent of Schools do not warrant a full-time position and could be absorbed into another office or handled on a part-time basis. The functions of the Public Administrator could be handled by the County Attorney's Office. The question of whether to continue or abolish these four officers as separately elected offices will be submitted to the voters as amendments to this Charter on June 4, 1996.

Section 5.02

(a) Qualification, Elections

Subsections (a)(1) and (a)(2) would reflect the name change of the government. Subsection (a)(2) would add language to require that all candidates possess the necessary qualifications for each office as set forth in state law, (a)(3) would accurately reflect the prohibition on holding other office and (a)(4) clarifies residency requirements. Subsections (b) and (f) would eliminate transitional language and subsections (c)(2) and (f) would eliminate unnecessary and confusing language. Subsection (c)(3) clarifies the requirement that the Council of Commissioners appoint an acting officer until a successor is named. Subsection (e) was corrected to accurately reflect State law. There are no substantive changes.

Section 5.03 - Appointment of Deputies

The change would clarify misleading and confusing language and would reflect current practice.

Section 5.04 - Powers and Duties of Elected Officers

This change would eliminate outdated gender-specific language.

Section 5.05 - Law Enforcement Department

The proposed language change would reflect the correct structure of the Law Enforcement Department and would delete transitional language from 1976 which involved merging the City Police Department and the County Sheriff's Office into a single Law Enforcement Department. Language changes would correctly refer to current sections of state law and would clarify the position of Undersheriff. There are no substantive changes.

SECTION VI

JUDICIARY

Section 6.01 Justice Court

Deletes obsolete language and replaces with reference to current state law. Corrects an apparent oversight by adding provision that salary of Justices of the Peace be set by ordinance.

Section 6.02 - City Court

The language change would correct a 20-year-old mistake in naming the court "Police" Court, a term no longer used in state law, and would allow the Town of Walkerville to request an agreement to give the City Court jurisdiction in Walkerville to enforce ordinances.

ARTICLE VII

ADMINISTRATIVE DEPARTMENTS

Section 7.01 - General

Language would be inserted to correct the name of the government. No substantive change.

Section 7.02 - Public Works Department

Language would be added to accurately describe public works functions in terms used today and obsolete language would be deleted. No substantive change.

Section 7.03 - Fire Department

(a). Reflects name changes.

(b). Eliminates reference to obsolete state law and adds new name "Municipal Fire Law." Also refers to Fire Commission described at (c) below.

Former (c) and (e). Deleted because both are covered by ordinance and Montana state law and are misleading.

New (c). New Section - Section added to reflect current practice by placing Fire Commission in Charter. Also provides for the testing of applicants for the position of Director of Fire Services by the Fire Commission. Replaces reference to Fire Coordinator with Director of Fire Services.

New (d). Includes name change and adds language to clarify relationship of volunteer districts with Chief Executive and Council of Commissioners

New (e). Changes language to reflect gender-neutral status and provides for appointment of Council of Commissioners members to the Fire Advisory Committee by Council instead of by Chief Executive.

New (f). At the request of the Fire Advisory Committee, combines the positions of paid Fire Chief and Fire Coordinator into a single position called Director of Fire Services. Eliminates all reference to Fire Coordinator and allows for the testing of the Director of Fire Services by the Fire Commission before selection and appointment.

New (g). Deletes legal description for fire district. Since the fire district is already established by ordinance, elimination of the legal description of the fire district in the Charter allows for later expansion or the creation of new districts by the Council of Commissioners. Also reflects name change.

New (h). Deletes transition language from 1976 Charter.

Section 7.04 - Land Records System

New Section. In an effort to streamline citizen access to land records, the Study Commission recommends creation of a Land Records System, to be located in the Clerk and Recorder's Office.

Section 7.05 - Finance and Budget System

New Section. The Study Commission determined that the Finance and Budget System is a significant part of the local government operation. Since this system was created in 1977, there

is no reference in the 1976 Charter.

Section 7.06 - Personnel System

New Section. The Study Commission determined that the Personnel System is a significant part of the local government operation. Since this system was created by ordinance, there is no reference in the 1976 Charter.

ARTICLE VIII

SERVICE AND TAXING DISTRICTS

Section 8.01

Transitional language from 1976 referring to creation of districts is obsolete and is deleted. Reference to metro sewer taxes is deleted since taxes are no longer levied for metro sewer. There are only user fees which are imposed according to state law. All reference to SID's is deleted since all SID charges are made by resolution pursuant to state law.

ARTICLE IX

NOMINATIONS AND ELECTIONS

Section 9.01 - Elected Officers

No change. Non-Partisan elections were retained.

Section 9.02 - Council of Commissioners Districts

The 12 single member Council of Commissioners districts were retained. All transitional language for 1976 was deleted.

Section 9.03 - Reapportionment of Council of Commissioners Districts

(a). Language changed to require Commissioners districts to be as nearly equal in population as possible. Deleted previous reference to 10% population deviation, because this is contrary to law.

(b). Language added to require reapportionment of Commissioners districts within 6 months after legislative reapportionment after census.

Section 9.04 - Redistricting

No change.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 10.01 - Amendment of Charter

No change.

Section 10.02 - Effective Date

The amended Charter becomes effective July 1, 1996 with transition items set forth in Article XI.

Section 10.03 - Separability

No change.

Section 10.04 - Initiative, Referendum and Recall

No change.

Section 10.05 - Ordinances

No change.

Section 10.06 - Register of Ordinances, Annual Publication of Uniform Municipal Code and Administrative Code

Deleted confusing reference to annual compilation of laws and replaced with provisions consistent with state law for maintaining a register of ordinances and a municipal code. Requires that municipal code be updated at least annually and added requirement that Council adopt an Administrative Code to address problems identified by the Study Commission.

Section 10.07 - Existing Employees

Delete entire section since it was transitional language for 1976.

Section 10.08 - Employment Policy

Now 10.07. Added equal employment opportunity language required by state and federal law.

Section 10.09 - Elected Officer's Salaries

No 10.08. Changed official to officer for consistency with state law and inserted gender-neutral language.

ARTICLE XI

TRANSITION PROVISIONS

This entire Article is new. Former Sections 11.01 through 11.07 were deleted since they referred to transitional provisions in 1976.

Section 11.01 - General Transition

New Section 11.01 provides for continuity of government, its obligations, duties, ordinances and resolutions.

Section 11.02 - Terms of Elected Office

New Section 11.02 provides that those presently elected City-County officers whose offices are abolished as separately elected offices officers by the voters on June 4, 1996 may continue in office and in the performance of their duties until January 6, 1997.

Section 11.03 - Election of Officers

New Section 11.03 provides an effective date of January 1, 1997 if the voters decide to change to partisan elections at the election of June 4, 1996.

Section 11.04 - Finance and Budget System

New Section 11.04 provides that the Council of Commissioners shall establish a Finance and Budget system by December 31, 1996.

Section 11.05 - Personnel System and Employment Policy

New Section 11.05 provides that the Council of Commissioners shall establish a Personnel System and Employment Policy by December 31, 1996.

Section 11.06 - Administrative Code

New Section 11.06 provides that the Council of Commissioners shall establish an Administrative Code by December 31, 1997.

Section 11.07 - Land Records System

New Section 11.07 provides that the Council of Commissioners shall establish a Land Records System by December 31, 1998.

CERTIFICATE

ESTABLISHING THE OFFICIAL BALLOT FOR

THE BUTTE-SILVER BOW SPECIAL ELECTION

Instructions to voters: Place an "X" in the box which expresses your preference.

OFFICIAL BALLOT

BALLOT ON THE AMENDED FORM OF GOVERNMENT

PLEASE VOTE ON ALL ISSUES.

1.
Vote for One.

[] FOR adoption of the amendments to the Butte-Silver Bow Charter deleting out-of-date language, adding stylistic changes, adopting gender-neutral language and updating the Fire District Article, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR the retention of the existing Charter language.

2.
Vote for One.

[] FOR elimination of the office of elected Assessor, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR the retention of an elected Assessor.

3.
Vote for One.

[] FOR elimination of the office of elected Auditor, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR the retention of an elected Auditor.

4.
Vote for One.

[] FOR elimination of the office of elected Public Administrator, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR the retention of an elected Public Administrator.

5.
Vote for One.

[] FOR elimination of the office of elected Superintendent of Schools as a separate full-time elected office, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR the retention of an elected full-time Superintendent of Schools.

We, the Study Commission of Butte-Silver Bow, do hereby certify that this is the official ballot approved by the Butte-Silver Bow Local Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Butte, Montana this 26th, day of March, 1996.

Attest: Barbara Sullivan
Barbara Sullivan

James F. Michelotti, Chairman

Ted Bury, Sr.

Ron Cass

Phyllis P. Egan

Jim Fabatz

Jack Hanley

William M. O'Leary

Jean Ruppert

John Svaldi

COMPARISON OF EXISTING CHARTER WITH PROPOSED CHARTER AMENDMENTS

CHARACTERISTIC	PRESENT CHARTER	AMENDED CHARTER	COMMENTS
Transition and other language no longer applicable.	Contains out-of-date, gender specific, and inapplicable language.	Removes out-of-date and inapplicable language and adopts gender neutral language, updates Fire District article, including Fire Commission.	Clarifies and updates Charter language and provides for gender neutral role definitions and makes other stylistic changes with little or no substantive effect. Allows for expansion of Fire District.
County Offices - Assessor - Auditor - Public Administrator - Superintendent of Schools	These four offices are elected as provided in the present Charter.	Voters will determine whether any or all of these four offices will be eliminated.	To achieve greater efficiency, allows the voters to eliminate the offices of Assessor, Auditor and Public Administrator and to reassign the duties of the full-time Superintendent of Schools to either an existing office or reduce to a part-time basis.

MINORITY REPORT
OF THE
BUTTE-SILVER BOW STUDY COMMISSION

We strongly support the changes to the Butte-Silver Bow Charter deleting out-of-date and inapplicable language, adding stylistic changes, adopting gender-neutral language, and updating the Fire District Articles.

We adamantly **oppose** the elimination of the elected office of Auditor.

We adamantly **oppose** the elimination of the elected office of Assessor.

We adamantly **oppose** the elimination of the elected office of County Superintendent of Schools.

We adamantly **oppose** the elimination of the elected office of Public Administrator.

Information gathered at the Public Hearing on the Preliminary Report indicates the Electorate of this county does not support the elimination of these elected offices.

Information gathered by the Study Commission over the past one and one-half years does not support nor justify the majority on this Commission who wish to eliminate these offices.

The citizens of this county, along with the individuals in the minority, have stated their belief in a participatory form of government. We, therefore, believe the selection of our officials should remain with the voters.

The undersigned also disagree with the majority decision, removing the issue of partisan elections from the June 4, 1996, ballot. For the Study Commission to reverse it's earlier decision of allowing the electorate to decide whether their elected officials should be partisan or non-partisan is without justification.

Once again, the minority strongly encourages the voters to adopt the language changes to the Butte-Silver Bow Charter so that the document truly reflects the actual workings of the Butte-Silver Bow City-County Government. We also encourage the voters to oppose the elimination of their elected officials, so that they have the ultimate choice in their selection.

Respectfully submitted this 19th day of March, 1996.

Ted Bury Sr.

TED BURY
Study Commissioner

Jim Fabatz

JIM FABATZ
Study Commissioner

Jack Hanley

JACK HANLEY
Study Commissioner

John Svaldi

JOHN SVALDI
Study Commissioner

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MONTANA
DEPARTMENT OF COMMERCE
Local Government Assistance Division
Local Government Services-Systems Program
1424 9th Avenue PO Box 200501
Helena, MT 59620-0501

Phone: (406) 444-3010
FAX: (406) 444-9785
TDD: (406) 444-2978

August 23, 1995

Mr. Harold Chambers
Montana State Library
1515 E. Sixth Avenue
PO Box 201800
Helena, MT 59620-1800

Mr. Chambers:

In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find a copy of the Town of Alberton's decision regarding the 1994 study commission.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Administrative Assistant

Enclosure

STATE DOCUMENTS COLLECTION
OCT 25 1995
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

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LOCAL GOVERNMENT
SERVICES BUREAU

ALBERTON GOVERNMENT STUDY COMMISSION FINAL REPORT

To the Citizens of Alberton:

In June of 1994, Alberton voters decided 61 to 42 that we wanted to review our local form of government. For many, the vote for review may have been an expression of dissatisfaction with government in general, a way to say something needs to be changed. For others there may have been more specific complaints, but solutions weren't apparent within the current governmental structure. Our job as commission members has been to find out if indeed something does need to be changed in Alberton government, and if so what it is.

The purpose of the study commission, according to state law, is to study the existing form of government and compare it to other available forms. If this research shows a change is needed, the commission may offer a proposal to the voters.

Over the last nine months we have met twelve times to follow these instructions. We held a public meeting before each town council meeting and also in conjunction with several Mineral County study commission meetings. We have also sought opinions from Alberton citizens at school board meetings, PTA meetings, Alberton Valley Association Meetings, and in more informal settings such as local businesses and homes. News about the findings from these meetings, along with our preliminary report, was published in the Clark Fork Post

As a result of information and opinions gathered in these discussions, we have formulated a recommendation for a change in Alberton's form of government. In this final report, we present a summary of our findings. As in any form of government, there are advantages and disadvantages to our proposal and we don't pretend it will answer every need. However, our job as commissioners is to determine what changes, if any, will best serve the town. We believe we have done that.

The question of whether to adopt this alternative form of government will be placed on the ballot November 7, 1995.

Respectfully submitted,

Shawn Lacz

Patsi Fyan

Lee Hanson

Alberton Study Commissioners

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- Exhibit A: Certificate of plan of existing form of government
- Exhibit B: Certificate of plan of proposed form of government
- Exhibit C: Certificate establishing the election date
- Exhibit D: Certificate establishing the first primary and general election dates for officers of the new government if the alternative proposal is approved.

II SUMMARY OF RECOMMENDATIONS

The Alberton Local Government Study Commission has studied the present form of town government, and the alternative forms available to towns under state law. After consideration, we recommend the following change:

Alberton should adopt, effective June 3, 1996, the commission-chairman form of government.

A. Findings of the Study Commission

Alberton's basic form of government, a four-person council with an executive (the mayor), serves the town well with only a few exceptions. Some of those exceptions come at election time.

It has often been difficult to find a candidate willing to devote four years as the town's executive. One mayor served four terms because there were no other candidates, even though he expressed that he wanted to retire,. This could become more of a problem as growth issues continue to top the council's agenda. These issue can lead to controversial and often unpopular decisions, and it may be the mayor who is perceived as the head of government and thus the one to blame. In a town as small as Alberton, it is hard to find someone willing to be the subject of such criticism.

Another problem with a mayor elected by the voters is that he or she may be incompatible with the council, and thus complicate and delay the work of government. Though a mayor votes only to break a tie, his or her presence and opinions should carry great weight in decision making and public relations. Conflict between mayor and council could undermine the town government's effectiveness.

The other issue most often mentioned related to local government is responsiveness. Many people felt they weren't represented by their elected officials. In a town with only about 250 registered voters, a mayor can be elected by a very small margin. Since the position of mayor is seen as representing the town, that small margin could dominate the whole.

In summary, three main issues emerged from our study:

1. Difficulty in finding candidates for mayor;

2. Potential incompatibility between mayor and council;

3. Government unresponsiveness to citizens.

B Key Provisions of the Proposed Form

The Council-Chairperson form of government has one main difference from the Council-Mayor form. The Chairperson is chosen by the council members from among themselves instead of directly by the voters. Under the council-chairperson form, the voters chose five council members instead of four council members and one mayor.

This form could relieve some of the difficulties we found in our study:

1. It would eliminate the problems associated with finding a mayoral candidate. Council members would not be singled out to take the blame for unpopular decisions, so the four-year term would not seem so ominous. A council member who wanted the job as chairperson, and was qualified, could be selected by the other members.

2. A chairperson who was incompatible or obstructive could be removed from office with proper notice.

3. A chairperson who is chosen from among the council would be unlikely to represent only a small portion of the community. The council, themselves chosen by the voters, would balance each other in choosing their chairperson.

III. COMPARISON OF EXISTING FORM OF GOVERNMENT AND PROPOSED FORM OF GOVERNMENT

A. Existing Form: COUNCIL-MAYOR. This form consists of an elected policy-making body which is called the council, and an elected single chief executive (the mayor). The executive is charged with the responsibility of enforcing local laws; administering the affairs of the local government; directing, supervising, and administering all departments and agencies of the local government; and executing the budget.

B. Proposed Form: COUNCIL-CHAIRPERSON. This form features an elected, policy-making council and a council chair who is selected by the council from among their number. The chair is charged with the responsibility of enforcing local laws; administering the affairs of the local government; directing, supervising, and administering all departments and agencies of the local government; and executing the budget.

C. Comparison of Specific Characteristics: The existing and proposed forms are essentially the same except for the manner in which the chief executive is selected. The mayor is chosen by the voters, and the chair is selected by the council from among their number. See the enclosed chart for specific comparisons.

D. Recommendations the Voters: We feel the council-chairperson form of government would solve some of Alberton's problems with local government. It would not change the duties of the executive: in fact he or she could still be known as the mayor. Since all council positions are elected directly by the voters, the executive would still be chosen indirectly by the citizens. But the council-chairperson form could eliminate some of the obstacles to effective government that we found in our study.

TOWN OF ALBERTON
COMPARISON OF SPECIFIC CHARACTERISTICS OF THE
MAYOR-COUNCIL AND COMMISSION-CHAIRMAN FORMS OF GOVERNMENT

CHARACTERISTIC	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	COMMENTS
FORM OF GOVERNMENT	MAYOR-COUNCIL Elected council performs policy making functions. Elected mayor administers government with the advise and consent of the council.	COMMISSION-CHAIRMAN Elected council performs policy making functions. Chairman is selected from council to administer policy with council direction.	The mayor (chair) is no longer elected separately, but chosen from the 5 member council.
POWERS	General government powers	General government powers	No change
GOVERNING BODY	Council and mayor responsible for all legislative, executive and administrative functions.	Council and mayor responsible for all legislative, executive and administrative functions.	No significant change
Size	4 councilmembers and mayor elected at large in nonpartisan elections.	5 councilmembers elected at large in nonpartisan elections.	No change
Term	Four year overlapping terms	Same	No change
Presiding Officer	Mayor	A chairman who may be called mayor.	No change

CHIEF ADMINISTRATIVE OFFICER	The elected mayor administers the government on a part time basis.	The chairperson selected from the council administers government on a part time basis.	The voters now determine who shall administer government. The proposal allows the council to choose the chairperson.
Powers and Duties	The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions.	The chairperson carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions.	Role of chair (mayor) will be to serve as a voting council member and to preside over council meetings and administer city government.
Appointment Powers	The mayor appoints department heads and members of boards and commissions with the consent of the council.	The chairperson appoints department heads and members of boards and commissions with the consent of the council.	No change
Budget Preparation	Mayor prepares budget in cooperation with department heads. Budget is then modified and approved by the city council.	Chairperson prepares the budget, and presents it to council which modifies and approves the budget.	No significant change.

CERTIFICATE

ESTABLISHING THE EXISTING PLAN OF GOVERNMENT

FOR THE

TOWN OF ALBERTON, MONTANA

If retained by the voters, the government of Alberton shall remain organized under the following provisions of 7-3-113, M.C.A. which authorizes the municipal council-mayor form of government.

7-3-113. Statutory basis for municipal council-mayor government.
(1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government, which does not adopt a new form, shall be governed after May 2, 1977 by the following sections:

(a) 7-3-201;
(b) 7-3-202(1);
(c) 7-3-203;
(d) 7-3-212(2);
(e) 7-3-213(3);
(f) 7-3-214(2);
(g) 7-3-215(2);
(h) 7-3-216(2);
(i) 7-3-217(3);
(j) 7-3-218(1); (City Ordinance authorizes at large elections pursuant to 7-5-4401(d) M.C.A.
(k) 7-3-219(2); (City Resolution authorizes nonpartisan elections pursuant to 13-1-104(1) M.C.A.)
(l) 7-3-220(1);
(m) 7-3-221(3);
(n) 7-3-222(2);
(o) 7-3-223(2).

(2) This form has terms of 4 years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed 20 members.

These sections establish the following form of government which shall be called the COMMISSION-EXECUTIVE FORM.

7-3-201. Commission-executive form. The commission-executive form (which may be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected commission (which may be referred to as the council) and one elected executive (who may be referred to as the mayor) who is elected at large.

7-3-202. Nature of government. The plan of government submitted to the qualified

electors shall determine the powers of the local government unit by authorizing general government powers.

7-3-203. Duties of the executive. The executive shall:

(1) enforce laws, ordinances, and resolutions;

(2) perform duties required of him by law, ordinance, or resolution;

(3) administer affairs of the local government;

(4) carry out policies established by the commission;

(5) recommend measures to the commission;

(6) report to the commission on the affairs and financial condition of the local government;

(7) execute bonds, notes, contracts and written obligations of the commission, subject to the approval of the commission;

(8) report to the commission as the commission may require;

(9) attend commission meetings and may take part in discussions;

(10) execute the budget adopted by the commission;

(11) appoint, with the consent of the commission, all members of boards; except the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

7-3-212. Administrative assistants. The executive may appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive.

7-3-213. Supervision of personnel. The executive may appoint, with the consent of a majority of the commission, all department heads and remove departments heads and may appoint and remove all other department employees.

7-3-214. Veto power. The executive may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission.

7-3-215. Preparation of budget. The executive may prepare the budget in consultation with the commission and department heads.

7-3-216. Administrative supervision and control. The executive may exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

7-3-217. Financial officer. A financial officer (who may be called the treasurer) shall be selected as provided by ordinance.

7-3-218. Selection of commission members. The commission shall be elected at large.

7-3-219. Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-220. Chairman of commission. The commission shall have a chairman who shall be elected by the members of the commission from their own number for a term established by ordinance.

7-3-221. Presiding officer of the commission. The presiding officer of the commission shall be the executive, who shall decide all tie votes of the commission but shall have no other vote (the chairman of the commission shall preside if the executive is absent).

7-3-222. Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-223. Size of commission and community councils. The size of the commission shall be four (4), and community councils to advise commissioners may be authorized by ordinance.

7-3-224. Terms of elected officials. The term of office of elected officials shall be four (4) years.

We, the Study Commissioners of the Town of Alberton do hereby certify that this is the existing Plan of Government as established by Section 7-3-113 M.C.A.

SEAL

In testimony whereof, we set our hands.

Done at Alberton, Montana this 22 day of August

ATTEST:

Jackie Callison, Alberton Town Clerk

Joe Hanson

Shawn Lake

Patricia Freese

CERTIFICATE

ESTABLISHING THE DATES OF THE

FIRST PRIMARY AND GENERAL ELECTIONS

FOR OFFICERS OF THE NEW GOVERNMENT

OF ALBERTON, MONTANA

IF THE ALTERNATIVE PROPOSAL IS APPROVED

AND ESTABLISHING THE EFFECTIVE DATE OF

THE PROPOSAL, IF APPROVED

The date of the primary election for officers of the new government of Alberton, Montana shall be held at a special election on February 6, 1996.

The date of the general election for officers of the new government of Alberton, Montana shall be held at a special election on April 2, 1996.

The effective date of the alternative plan of local government of Alberton, Montana takes effect when the new officers take office at 10 a.m., June 3, 1996.

We, the Study Commissioners of Alberton do hereby certify that these are the dates of the special primary and general elections and the effective date of the alternative plan of local government of Alberton approved by the Alberton Local Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Alberton, Montana this 22nd day of August

ATTEST:
Jackie Callison, Alberton Town Clerk

Joe Hanson

Shawn Lake

Patricia Freese

(16) prepare the budget and present it to the commission for adoption;

(17) exercise control and supervision over the administration of departments and boards;

7-3-512. Selection of commission members. The commission shall be elected at large.

7-3-513. Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-514. Administrative assistants. The commission chairman may appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the chairman.

7-3-515. Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-516. Size of commission and community councils. The size of the commission shall be five (5), and community councils to advise commissioners may be authorized by ordinance.

7-3-517. Terms of elected officials. The term of office of elected officials shall be four (4) years.

We, the Study Commissioners of the Town of Alberton, do hereby certify that this is the proposed Plan of Government approved by the Alberton Local Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Alberton, Montana this 22 day of August

ATTEST: _____
Jackie Callison, Alberton Town Clerk

_____
Joe Hanson

_____
Shawn Lake

_____
Patricia Freese

CERTIFICATE

ESTABLISHING THE OFFICIAL BALLOT FOR

THE NOVEMBER 7, 1995 SPECIAL ELECTION

Instructions to voters: Place an "X" in the box which expresses your preference.

OFFICIAL BALLOT

BALLOT ON THE ALTERNATIVE FORM OF GOVERNMENT

Vote for One.

☐ FOR adoption of the commission-chairman plan of government proposed for Alberton proposed by the Alberton Local Government Study Commission.

☐ FOR the existing form of government.

We, the Study Commissioners of the Town of Alberton do hereby certify that this is the official ballot approved by the Alberton Local Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Alberton, Montana this 22 day of August

ATTEST:
Jackie Callison, Alberton Town Clerk

Joe Hanson

Shawn Lake

Patricia Freese

CERTIFICATE

ESTABLISHING THE DATES OF THE

FIRST PRIMARY AND GENERAL ELECTIONS

FOR OFFICERS OF THE NEW GOVERNMENT

OF ALBERTON, MONTANA

IF THE ALTERNATIVE PROPOSAL IS APPROVED

AND ESTABLISHING THE EFFECTIVE DATE OF

THE PROPOSAL, IF APPROVED

The date of the primary election for officers of the new government of Alberton, Montana shall be held at a special election on February 6, 1996.

The date of the general election for officers of the new government of Alberton, Montana shall be held at a special election on April 2, 1996.

The effective date of the alternative plan of local government of Alberton, Montana takes effect when the new officers take office at 10 a.m., June 3, 1996.

We, the Study Commissioners of Alberton do hereby certify that these are the dates of the special primary and general elections and the effective date of the alternative plan of local government of Alberton approved by the Alberton Local Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Alberton, Montana this 22nd day of August

ATTEST: _____
Jackie Callison, Alberton Town Clerk

_____
Joe Hansen

_____
Shawn Lake

_____
Patricia Freese

MONTANA
DEPARTMENT OF ADMINISTRATION

Local Government Services Bureau-Systems Program
301 South Park Avenue Room 340
PO Box 200547
Helena, MT 59620-0547

Phone: (406) 841-2909
FAX: (406) 841-2910
TDD: (406) 444-1421

STATE DOCUMENTS COLLECTION
JAN 1 - 2006
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

December 22, 2005

Montana State Library
1515 E Sixth Avenue
Helena, MT 59620-1800

RE: Local Government Study Commission Reports

As required in 7-3-187, MCA, we are required to forward to the State Library a copy of the final reports of local government study commissions that we receive in our office. Enclosed is a copy of the Town of Albertson's 2004 Local Government Study Commissions report for your files.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Program Specialist
Local Government Services Bureau/Systems
841-2900

Enclosure

Contact: James Kammerer – 444-5432
State Library

RECEIVED
DEC 22 2005
ADMINISTRATION
LOCAL GOVERNMENT
SERVICES BUREAU

ALBERTON GOVERNMENT STUDY COMMISSION FINAL REPORT

To the Citizens of Alberton:

In June of 2004, Alberton voters decided 42 to 32 that they wanted to review our local form of government and 44 to 33 for funding the Alberton Government Study Commission. Request for members for the study commission was posted in the 5 designated places stipulated by the town ordinance. No one stepped forward and members had to be appointed by the Mayor. The appointed members were Casey Dutt, Kay Barth, and Julie Bunton.

The purpose of the study commission, according to state law, is to Study the existing form of government and compare it to other available forms. If this research shows a change is needed the commission may offer a proposal to the voters.

The commission held public meetings and opinions sought from the citizens of Alberton three times before city council meetings. Questions were raised at the first meeting concerning un-incorporating. The commission investigated these questions. Findings were Alberton citizens would be handing over all decision making to Mineral County Commissioners. Possibly burdening Alberton citizens with higher taxes and having to share costs with developers for waste water systems and replacements of aging infrastructures outside of city limits if the town was to un-incorporate.

RECEIVED
DEC 22 2005
ADMINISTRATION
LOCAL GOVERNMENT
SERVICES BUREAU

ALBERTON GOVERNMENT STUDY COMMISSION FINAL REPORT

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After reviewing the other forms of government and the results of our findings of un-incorporating Alberton, this commission finds that the current form of local government is the best option for Alberton citizens to govern themselves.

Respectfully submitted,

Casey Dutt

Kay Barth

Julie Bunton

Alberton Government Study Commission

Date: Aug 31st 2005

176672
#5212

RECEIVED
OCT 09 2007

FINAL REPORT

OF THE

ANACONDA-DEER LODGE LOCAL GOVERNMENT REVIEW STUDY COMMISSION

AUGUST 7, 2006

August 29 06
25 11
A
MARIE HATCHER
Deputy
Deborah R. DeLong
Deputy

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1. **Findings**
2. **Recommendations**

II. Comparison Chart of Present and Proposed Charters

III. Certificate of Present Anaconda-Deer Lodge Charter

IV. Certificate of the Proposed Amended Anaconda-Deer Lodge Charter

V. Certificate Establishing the Election Date

VI. Certificate Establishing the Ballot Format

(NOTE: The above certificates are required by 7-3-187 and, by reference, 7-3-142, MCA.

Letter to the Citizens of Anaconda-Deer Lodge

Fellow Citizens,

The Anaconda-Deer Lodge Local Government Review Study Commission, elected by the voters on November 2, 2004, present our final report to you, the citizens of Anaconda-Deer Lodge.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." After completing these two phases of the study it is the responsibility of the study commission to submit a final report recommending no change, or propose amendments to the existing form of government or offer an alternative form of government to the qualified electors.

Through open, public meetings, we have sought the input of government officials, government employees and the public and have relied upon the advice of Dr. Kenneth Weaver at The Local Government Center at Montana State University-Bozeman.

The views expressed in our findings and recommendations reflect the thoughts and opinions of the members of this commission as well as those expressed at our meetings and private conversations with our friends and neighbors.

In this final report we present our recommendations for amendments to our Charter which we feel will help provide the government expected by the citizens of Deer Lodge County.

These questions will be placed on the ballot November 7, 2006.

Respectfully submitted,
Anaconda/Deer Lodge Study Commission

FINDINGS: We find the consolidated form of government has been an effective government serving the county and meeting the needs of its citizens. However, inefficiencies have been demonstrated within the administration of that government.

We realize that our recommendations, while contributing to a more efficient and responsive government, are no substitute for healthy, vigorous, and continuous oversight by our elected representatives.

It is the hope of this Study Commission that the County Commission will, if our recommendations are accepted by the citizens of Deer Lodge County, pursue a vigorous search for candidates for the position of Chief Executive as the need arises. It is further hoped by this Study Commission, that the County Commission will lay out rigorous, public qualifications for the person sought for this position as soon as practicable.

RECOMMENDATIONS: 1. The Study Commission recommends replacing the elected Chief Executive with one appointed by the County Commission.

2. The Study Commission recommends replacing the elected Chief of Law Enforcement with one appointed by the Chief Executive and the County Commission.

3. The Study Commission recommends voters from within the individual county commission districts elect county commissioners.

4. The Study Commission recommends eliminating the requirement that the second place candidate automatically fill any vacancies on the County Commission.

5. The Study Commission recommends requiring the County Commissioners to initiate a rigorous selection process within ten days of the announcement of a pending vacancy for the position of Chief Executive Officer and selecting a qualified replacement within 120 days of such announcement.

Respectfully submitted,

William Johnson, Chair

Wydette Demachki, Vice-Chair

Lorraine Biggs-Gallik

James Bouck

Kevin Hart

Study Commissioners

COMPARISON OF SPECIFIC CHARACTERISTICS OF THE PRESENT AND PROPOSED PLANS OF GOVERNMENT SET FORTH IN THE ANACONDA-DEER LODGE CHARTER

CHARACTERISTIC	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	COMMENTS
FORM OF GOVERNMENT	Charter with elected chief executive and elected chief law enforcement officer	Charter with an appointed chief executive and appointed chief law enforcement officer	Changes from elected to appointed chief executive and appointed chief law enforcement
POWERS	Self-government powers	Self-government powers	No change
GOVERNING BODY Size	5 members nominated by district and elected at large	5 members nominated by district and elected by district.	Change to members being elected by district.
Term	Four year overlapping terms Vacancies filled by person who received second highest vote total in preceding election.	Four year overlapping terms. Vacancy filled by appointment of qualified person by majority vote of county commission.	No change in term of office Vacancy appointment process changed to enable the county commission to
Presiding Officer	Elected by county commission	Elected by the county commission.	appoint a fully qualified person to fill a vacancy on the

CHIEF EXECUTIVE OFFICER			
Selection	Elected by the voters.	Appointed by the county commission based upon qualifications for the office. Within 60 days of a vacancy occurring	Changes method of selection of the chief executive from election by the voters to appointment by elected commission
Powers and Duties	Serves as chief executive and chief administrative officer to perform those duties set forth in law and the charter.	Serves as chief executive and chief administrative officer to perform those duties set forth in law and the charter.	No change
Appointment Powers	Appoints and removes department heads with commission approval.	Appoints and removes department heads with commission approval	No change
Budget Preparation	Prepares budget for commission approval and executes commission approved budget.	Prepares budget for commission approval and executes commission approved budget.	

CERTIFICATE A

CERTIFICATE OF THE PRESENT PLAN OF GOVERNMENT

Anaconda-Deer Lodge County, Montana

CHARTER

Preamble

We, the people of the City of Anaconda and the County of Deer Lodge, State of Montana, in accordance with Article XI, Section 5, of the Constitution of the State of Montana and for the purpose of achieving one community, do adopt this Charter of Anaconda-Deer Lodge County, State of Montana.

Article I
General Provisions

Section 1. Name.

The name of this local government unit shall be Anaconda-Deer Lodge County.

Section 2. Status.

Anaconda-Deer Lodge County shall have the status of an incorporated municipality and a county.

Section 3. Boundaries.

The boundaries of Anaconda-Deer Lodge County shall be the same as those of Deer Lodge County as described in the laws of Montana.

Section 4. Charter Supremacy.

As provided by Article XI, Section 5, of the Constitution of the State of Montana, provisions herein establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

Section 5. Oath of Office.

Before entering upon the duties of office, all Anaconda-Deer Lodge County elected officials shall take and subscribe to the oath of office as follows:

> "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, the

Constitution of the State of Montana, this Charter, and that I will discharge the duties of my office with fidelity (so help me God)."

Article II
Powers

Section 1. Declaration of Powers.

1. Anaconda-Deer County shall have all powers not prohibited by the Constitution of the United States of America, the constitution of the State of Montana, and laws of the State of Montana, or this Charter.

2. Enumeration of rights, powers, or duties in this Charter shall not be considered exclusive or restrictive.

Section 2. Interpretation of Powers.

The powers and authority of Anaconda-Deer Lodge County shall be liberally interpreted. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.

Section 3. Exercise of Powers.

All powers of Anaconda-Deer Lodge County belong to the people of Anaconda-Deer Lodge County. The powers shall be exercised by their elected representatives.

Section 4. Existing Obligations.

Any bond, debt, contract, obligation, or cause of action already accrued or established by the City of Anaconda or the County of Deer Lodge governments shall be unaffected by this Charter.

Article III
Commission

Section 1. Powers.

The Anaconda-Deer Lodge County Commission shall be the legislative and policy-making body of Anaconda-Deer Lodge County. Except as otherwise provided by this Charter, the Commission shall exercise all powers of Anaconda-Deer Lodge County which include, but are not limited to, the power:

a. to adopt ordinances and resolutions.

b. to raise, borrow, and appropriate money.

c. to provide for an annual audit and a written report of that audit.

d. to approve and adopt an annual budget.

e. to adopt and maintain an Administrative Code and a Personnel System.

f. to review and investigate all fiscal and management operations of the local government.

g. to establish and prescribe functions of all administrative departments and agencies.

h. to create, transfer, reorganize, adjust, abolish, or absorb the boundaries of all existing boards, bureaus, commissions, agencies, special districts, and political subdivisions of the consolidated governments.

I. to appoint all members of boards and commissions.

j. to appoint legal counsel to advise the Commission as necessary.

Section 2. Restrictions on the Powers and Duties of the Commission.

1. The commission may impose no new form of taxation, including but not limited to sales taxes and income taxes, without approval by the people in a referendum to be held only at a county general election.

2. Neither the Commission nor any of its members may dictate the appointment or removal of any employee whom the Chief Executive or any of his/her subordinates are empowered to appoint.

3. Except for the purpose of inquiry or investigation under this Charter or the code of local government, the Commission or its members shall deal with the local government employees who are subject to the direction and supervision of the Chief Executive, solely through the Chief Executive, and neither the Commission nor its members may give orders to any such employee, neither publicly nor privately.

Section 3. Composition, Terms, and Election.

1. The Commission shall be composed of five (5) members and each Commissioner shall have a designated Commission district. Commission Districts shall be of as nearly equal population as possible and shall be reapportioned by the Commission within six (6) months after each official United States census.

2. Candidates for each Commission district seat shall reside in that Commission

district.

3. Each Commission district nominee shall be selected in the primary election by the voters in that district.

4. Commissioners shall be elected in the general election for a term of four (4) years by the voters of the county at large. At least two (2) Commissioners shall be elected every two (2) years.

5. The office of Commissioner shall be part-time.

6. Elections for the Commission shall be non-partisan.

Section 4. Qualifications, Removal, and Vacancy.

1. All qualified electors of Anaconda-Deer Lodge County are eligible for election to the Commission.

2. No Commission member shall hold any other elective public office or be employed by Anaconda-Deer Lodge County.

3. The office of Commissioner shall become vacant upon the member's:

a. death.

b. resignation.

c. loss of eligibility for election.

d. violation of any express prohibition of this Charter.

e. conviction of a felony by a court of competent jurisdiction.

4. A. In the event of a vacancy on the County Commission, the candidate for the vacant commission district receiving the second highest total of votes in the previous election for that district shall assume the office of county commissioner. In the event the candidate is ineligible, unable or unwilling to assume the office of county commissioner, the remaining commission shall advertise the vacancy, accept applications from eligible citizens, and choose an eligible citizen to fill the vacancy.

B. This amendment shall become effective on January 1, 1997.

5. The commission shall be the judge of the election and qualifications of its members and of the grounds for removal from office. A member charged with conduct constituting grounds for loss of office shall be entitled to a public hearing on demand and

notice of such hearing shall be published in a manner consistent with state law.

Section 5. Compensation.

1. The Commission shall set the annual salary of its members by ordinance. The ordinance shall be adopted at least six (6) months prior to the next Commission election and shall not become effective until the date for qualification set by state law, following the next Commission election.

2. In addition to salary, commission members shall receive actual and necessary expenses incurred in the performance of their duties of office, as approved by the Commission.

Section 6. Organization and Procedures.

1. There shall be a chairman/chairwoman of the Commission elected by the Commission. The chairman/chairwoman shall be the official representative of Anaconda-Deer Lodge County and shall have those powers and duties delegated by the Commission.

2. The Commission shall adopt by ordinance a set of written rules to govern its organization and procedures consistent with state law.

3. The Commission shall provide for the keeping of a journal of its proceedings.

4. All meetings shall be open to the public except in such circumstances as are prescribed by state law.

5. All documents and records of the Commission shall be public records and shall be made available for examining and copying.

6. A majority vote of the entire commission shall be required for all official actions of the Commission. A minimum of four (4) Commission members must be present when official actions are taken by the Commission.

Section 7.

1. All county boards, commissions, and committees appointed by the county commission shall be established by a separate ordinance. The establishing ordinance for each board shall comply with the following requirements:

a. the purpose, powers and duties, membership, and term of office of the board, commission or committee shall be clearly defined.

b. the frequency of meetings of the board shall be set forth.

c. the duration of existence of the board shall be set forth.

d. if the board is required for any purpose by State law, the law shall be referenced on the ordinance.

e. the ordinance shall specify how often the board, commission, or committee shall be required to report back to the commission.

f. the ordinance shall specify whether any staff, employees, or commissioners may serve in the board, commission, or committee and whether any commissioner may chair that board or committee.

2. The Anaconda-Deer Lodge County Commission shall post and advertise all board openings, vacancies and expired terms within 30 days of the notice of such vacancies. The Anaconda-Deer Lodge County Commission shall wait 30 days after advertising or posting begins prior to filling such vacancy.

Article IV
Chief Executive

Section 1. Qualifications, Appointment, Removal, and Vacancy.

1. The Anaconda-Deer Lodge County Chief Executive shall be elected by a plurality vote on a non-partisan ballot for a four (4) year term.

2. All qualified electors of Anaconda-Deer Lodge County are eligible for election to the position of Chief Executive.

3. The Chief Executive shall not hold any other elective public office or be employed by anyone other than Anaconda-Deer Lodge County.

4. The office of Chief Executive shall become vacant upon the Chief Executive=s:

a. death;

b. resignation;

c. loss of eligibility for election;

d. violation of any express prohibition of this Charter;

e. conviction of a felony by a court of competent jurisdiction.

5. In the event of a vacancy, the Commission shall, by majority vote of its members, appoint a Chief Executive to fill the vacancy until the next regular election, at which time the remainder of the term of office shall be completed as provided by law.

6. The Commission shall be the judge of the election and qualifications of the Chief Executive and of the grounds for removal from office. A Chief Executive charged with conduct constituting grounds for loss of office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

7. By letter filed with the Commission, the Chief Executive shall designate an acting Chief Executive to perform the duties of the Chief Executive during his/her temporary absence of disability. During such absence or disability, the Commission may revoke such designation at any time, and appoint another officer of the local government to serve until the Chief Executive shall return or his/her disability shall cease.

Section 2. Compensation.

The Commission shall set the salary and other conditions of employment of the Chief Executive.

Section 3. Duties.

1. The Anaconda-Deer Lodge County Chief Executive shall be the chief administrative officer of the local government and shall be responsible for all administrative functions of Anaconda-Deer Lodge County, unless otherwise provided by this Charter.

2. The Chief Executive's responsibilities shall be to:

a. enforce laws, ordinances, and resolutions.

b. direct, supervise, and administer all departments and agencies of Anaconda-Deer Lodge County.

c. appoint and remove department heads with the approval of the Commission.

d. appoint, remove and supervise employees in consultation with the department heads.

e. prepare the Commission agenda.

f. attend Commission meetings unless excused by the Commission and may participate in discussions.

g. execute bonds, notes, contracts and written obligations of the local government, subject to Commission approval.

h. prepare and present the budget to the Commission for its approval and execute the budget adopted by the Commission.

l. recommend measures to the Commission.

j. report, as the Commission may require, on the affairs and financial condition of the local government and prepare and present a written annual report.

k. recommend revisions of the Administrative Code and Personnel System.

l. carry out policies established by the Commission and perform other assignments as required by the Commission.

Article V
Administration

Section 1. General.

The activities under the direction and supervision of the Chief Executive shall be distributed among such departments and agencies as are established by this Charter or may be established there under by ordinance of the Commission in order to execute and enforce policies as determined by the Commission and to carry out obligations imposed on Anaconda-Deer Lodge County by state law.

Section 2. Administrative Code.

1. The Administrative Code shall provide the complete plan of organization and structure of Anaconda-Deer Lodge County.

2. The Administrative Code shall include:

a. the departmental organization of the government, the nature and scope of each department, and rules and procedures for department operation.

b. comprehensive budget procedures for the government in accordance with state law.

c. procedures regarding boards, commissions, advisors, studies and any other government activities.

Section 3. Personnel System.

1. The Anaconda-Deer Lodge County Personnel System shall provide for hiring

on the basis of merit and shall include a salary schedule, provisions for vacations, sick leaves, insurance and other benefits for all employees in accordance with provisions of this Charter; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an equitable Personnel System including honoring of all collective bargaining agreements.

2. State laws with regard to nepotism shall apply.

Article VI
County Attorney

Section 1. Duties.

The County Attorney shall be the prosecuting attorney and the legal counsel to Anaconda-Deer Lodge County and shall have those duties set by state law.

Section 2. Election, Qualifications, Removal, and Vacancy.

1. The County Attorney shall be elected for a four (4) year term on a non-partisan ballot, shall have qualifications set by state law, and may be removed from office as provided by state law.

This amendment shall become effective on January 1, 1997.

2. In the event of a vacancy, the Commissioners shall appoint a qualified person to fill the vacancy until the next regular Anaconda-Deer Lodge County election at which time the remainder of the term shall be completed as required by law.

Section 3. Compensation.

The County Attorney shall be compensated according to state law.

Article VII
Popular Controls

Section 1. Initiative, Referendum, and Recall.

The people of Anaconda-Deer Lodge County may exercise initiative, referendum, and recall as provided by state law.

Section 2. Open Government.

All meetings and records of Anaconda-Deer Lodge County shall be open to the public as provided by state law.

Article VIII
Service Districts

Section 1. General Services District.

1. The total area of Anaconda-Deer Lodge County shall consist of a General Service District in which all property shall be taxed at a rate based on the level of services actually provided.

2. The Commission shall determine by ordinance the rates of taxation except that no differential tax for new services or increased levels of service can be imposed until provision has been made for delivery of the service.

3. Any ordinance establishing differential tax rates shall be subject to complete public hearing procedures as provided by law.

Section 2. Special or Local Improvement Districts.

The Commission may create Special or Local Improvement Districts as provided by law.

Article IX
Miscellaneous Provisions

Section 1. Charter Amendment.

This Charter may be amended as provided by state law.

Section 2. Effective Date.

This Charter shall become effective on May 2, 1977 with the Amended Charter becoming effective on June 8, 1993.

Section 3. Judicial.

The offices of Police Judge, Justice of the Peace, and Constable shall be as provided by state law.

Section 4. Separability.

If any section, sub-section, paragraph, sentence, clause, or phrase of this Charter,

or the application thereof to any person or circumstance, should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions or other applications of this Charter.

Article X
Consolidation/Transitional Provisions

Section 1. General Provisions.

1. Each provision of this Transition Article (Article X) shall be published as a part of this Charter until it has been implemented.

2. Transition to this Charter government shall be as prescribed by this charter and state law. The commission may provide for such transition by ordinance, rule, or resolution not inconsistent with law.

3. During the period of the transition, the Commission may appoint a temporary advisory committee consisting on former mayors, aldermen, and county commissioners.

Section 2. Continuity.

1. Each rule, ordinance, or resolution of the Anaconda and Deer Lodge governments shall remain in force within those former geographic jurisdictions until superseded by action of the Commission. The Commission shall revise, repeal, or reaffirm all such rules, ordinances, and resolutions by May 2, 1979.

2. Anaconda-Deer Lodge County shall be vested with and shall hold, own and control all rights and property of every kind and nature including claims and franchises, owned or controlled by the former city and county governments on the effective date of this Charter. It shall be subject to all debts, obligations, contracts and liabilities of the former city and county governments on the effective date of this Charter.

3. All general obligation bonded indebtedness of the former city and county governments shall remain payable from the jurisdiction subject to indebtedness.

4. Revenue bond or special fund indebtedness not involving a general obligation of the former city and county governments shall continue in effect and be payable according to the terms of such indebtedness.

5. All Anaconda and Deer Lodge County officials or employees, except the Mayor, City Council members, and County Commissioners, may continue in the performance of their duties according to existing personnel procedures or until their positions are terminated by the Administrative Code. Employees whose positions are terminated by provisions of the Administrative Code shall be given first consideration for other Anaconda-Deer Lodge County employment.

6. City and county employees initially will be assigned duties based on seniority except that seniority will not necessarily determine department heads or foremen. Department heads and foremen shall be chosen by the Chief Executive on the basis of merit including knowledge and experience in the former city and county governments.

7. All rights and benefits of city and county employees shall be recognized by this Charter.

Section 3. Initial Procedures.

1. The Commission shall meet on May 2, 1977, to elect its chairman/chairwoman, establish regular meeting dates, provide for appointment of the Manager, and set the agenda for the next meeting. At this first meeting, the Commissioners shall draw lots to establish three (3) terms of office of four (4) years each and two (2) terms of office of two (2) years each.

2. The Commission, at its first meeting shall adopt ordinances and resolutions necessary to effect the transition of government under this Charter and to maintain effective county government during the transition.

3. Each newly elected Commissioner shall receive an initial salary of $200.00 per month.

4. Until modified in accordance with the provisions of this Charter, Commission districts shall be as follows:

Commissioner District	Enumeration District Number
#1	11
	12
	15
	16
#2	7
	9
	10
	13
	14
#3	4
	5
	6
	8
#4	1
	2

#5

3
17
18
19
20

CERTIFICATE FOR THE APPORTIONMENT OF THE
COMMISSIONER DISTRICTS
ANACONDA-DEER LODGE COUNTY, MONTANA

Total Population (1990 U.S. Census) 10,278

Commission District	Precincts	Population	Deviation
1	2 & 3	2,044	-0.5%
2	4 & 7A	2,148	+4.5%
3	5 & 6	2,140	+4.1%
4	8 & 9	1,978	-3.8%
5	1 & 10	1,968	-4.2%

Section 4. Manager, Administrative Code, and Personnel System.

1. The Commission shall appoint the Manager on or before August 1, 1977.

2. Within nine (9) months of the appointment of the Manager, the Manager shall prepare and submit an Administrative Code and Personnel System to the Commission for review, amendment and adoption by ordinance. The Code and Personnel System shall not be in violation of any union collectively bargaining contract in force at the time of adoption of said Code and System.

3. The Commission shall adopt the Administrative Code and Personnel System by ordinance as submitted or amended within three (3) months of the date of submission by the Manager.

4. The method and schedule for implementation of the Administrative Code and Personnel System shall be provided in the ordinances adopting them.

5. No later than March 1, 1979, the Manager shall submit a codification of ordinances and resolutions to the Commission for review, amendment, and adoption by ordinance.

Section 5. Service Districts.

The Service Districts now established within the city of Anaconda and within the

County of Deer Lodge shall remain in effect until they are changed as provided in this Charter.

Article XI
Chief of Law Enforcement

Section 1. Qualifications, Election, Removal, and Vacancy.

1. The Anaconda-Deer Lodge County Chief of Law Enforcement shall be elected by a plurality vote on an non-partisan ballot for a four (4) year term.

2. All qualified electors of Anaconda-Deer Lodge County who submit an Affidavit stating that they have at least five (5) years experience in law enforcement are eligible for election to the position of Chief of Law Enforcement.
3. The Chief of Law Enforcement shall not hold any other public office or be employed by anyone other than Anaconda-Deer Lodge County, and shall not be the department head of, or supervise, any other department of local government.

4. The office of Chief of Law Enforcement shall become vacant upon the Chief of Law Enforcement's:

a. death;

b. resignation;

c. loss of eligibility for election;

d. violation of any express prohibition of this charter;

e. conviction of a felony by a court of competent jurisdiction.

5. In the event of a vacancy, the Commission shall, by majority vote of its members, appoint a Chief of Law Enforcement to fill the vacancy until the next regular election, at which time the remainder of the term of office shall be completed as provided by law.

6. The Commission shall be the judge of the election and qualifications of the Chief of Law Enforcement and of the grounds for removal from office. A Chief of Law Enforcement charged with conduct constituting grounds for loss of office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

7. By letter filed with the Commission, the Chief of Law Enforcement shall designate an acting Chief of Law Enforcement to perform the duties of the Chief of Law Enforcement during his/her temporary absence or disability. During such absence or

disability, the Commission may revoke such designation at any time, and appoint another officer of the local government to serve until the Chief of Law Enforcement shall return or his/her disability shall cease.

Section 2. Compensation.

The Commission shall set the salary and other benefits of employment of the Chief of Law Enforcement.

Section 3. Duties.

1. Preserve the peace;

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

3. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his/her knowledge;

4. Perform the duties of a humane officer within the County with reference to the protection of animals;

5. Attend all courts, except municipal, justices' and city courts, at their respective terms or sessions held within the County and obey their lawful orders and directions;

6. Take charge of, maintains and manages the detention center and the inmates therein;

7. Serve all process or notices in the manner prescribed by law;

8. Take charge of and supervise search and rescue units and their offices whenever search and rescue units are called into service; and

9. Directs and supervises all enforcement officers; conducts criminal investigations;

10. Enforces all laws, ordinances, and resolutions; manages traffic control and parking;

11. Complies with personnel procedures and the budget established by the Commission;

12. Directs and supervises the operation of the 911 Center;

13. Performs such other duties as are required by law or ordinance, at the direction of the Chief Executive.

Section 4.

This amendment shall become effective on January 1, 1997.

Adopted for the people of Anaconda-Deer Lodge County, Montana, as approved by the people at the June 8, 1993 and November 5,1996 Charter Amendment Elections, this ___ day of_____, 1997.

_____
Tracey Sweeney, Election Administrator

Attest:

_____
Carol L. Gilluly
Clerk of the Commission
(seal)

CERTIFICATE B
CERTIFICATE OF THE PROPOSED PLAN OF GOVERNMENT

Anaconda-Deer Lodge County, Montana

CHARTER

Preamble

We, the people of the City of Anaconda and the County of Deer Lodge, State of Montana, in accordance with Article XI, Section 5, of the Constitution of the State of Montana and for the purpose of achieving one community, do adopt this Charter of Anaconda-Deer Lodge County, State of Montana.

Article I
General Provisions

Section 1. Name.

The name of this local government unit shall be Anaconda-Deer Lodge County.

Section 2. Status.

Anaconda-Deer Lodge County shall have the status of an incorporated municipality and a county.

Section 3. Boundaries.

The boundaries of Anaconda-Deer Lodge County shall be the same as those of Deer Lodge County as described in the laws of Montana.

Section 4. Charter Supremacy.

As provided by Article XI, Section 5, of the Constitution of the State of Montana, provisions herein establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

Section 5. Oath of Office.

Before entering upon the duties of office, all Anaconda-Deer Lodge County elected officials shall take and subscribe to the oath of office as follows:

"I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, the Constitution of the State of Montana, this Charter, and that I will discharge the duties of my office with fidelity (so help me God)."

Article II
Powers

Section 1. Declaration of Powers.

1. Anaconda-Deer County shall have all powers not prohibited by the Constitution of the United States of America, the Constitution of the State of Montana, and laws of the State of Montana, or this Charter.

2. Enumeration of rights, powers, or duties in this Charter shall not be considered exclusive or restrictive.

Section 2. Interpretation of Powers.

The powers and authority of Anaconda-Deer Lodge County shall be liberally interpreted. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.

Section 3. Exercise of Powers.

All powers of Anaconda-Deer Lodge County belong to the people of Anaconda-Deer Lodge County. The powers shall be exercised by their elected representatives.

Section 4. Existing Obligations.

Any bond, debt, contract, obligation, or cause of action already accrued or established by the City of Anaconda or the County of Deer Lodge governments shall be unaffected by this Charter.

Article III
Commission

Section 1. Powers.

The Anaconda-Deer Lodge County Commission shall be the legislative and policy-making body of Anaconda-Deer Lodge County. Except as otherwise provided by this Charter, the Commission shall exercise all powers of Anaconda-Deer Lodge County which include, but are not limited to, the power:

a. to adopt ordinances and resolutions.

b. to raise, borrow, and appropriate money.

c. to provide for an annual audit and a written report of that audit.

d. to approve and adopt an annual budget.

e. to adopt and maintain an Administrative Code and a Personnel System.

f. to review and investigate all fiscal and management operations of the local government.

g. to establish and prescribe functions of all administrative departments and agencies.

h. to create, transfer, reorganize, adjust, abolish, or absorb the boundaries of all existing boards, bureaus, commissions, agencies, special districts, and political subdivisions of the consolidated governments.

I. to appoint all members of boards and commissions.

j. to appoint legal counsel to advise the Commission as necessary.

Section 2. Restrictions on the Powers and Duties of the Commission.

1. The Commission may impose no new form of taxation, including but not limited to sales taxes and income taxes, without approval by the people in a referendum to be held only at a county general election.

2. Neither the Commission nor any of its members may dictate the appointment or removal of any employee whom the Chief Executive or any of his/her subordinates are empowered to appoint.

3. Except for the purpose of inquiry or investigation under this Charter or the code of local government, the Commission or its members shall deal with the local government employees who are subject to the direction and supervision of

the Chief Executive, solely through the Chief Executive, and neither the Commission nor its members may give orders to any such employee, neither publicly nor privately.

Section 3. Composition, Terms, and Election.

1. The Commission shall be composed of five (5) members and each Commissioner shall have a designated Commission district. Commission Districts shall be of as nearly equal population as possible and shall be reapportioned by the Commission within six (6) months after each official United States census.

2. Candidates for each Commission district seat shall reside in that Commission district.

3. Each Commission district nominee shall be selected in the primary election by the voters in that district.

4. Commissioners shall be elected in the general election for a term of four (4) years ***and shall be elected by districts in which candidates must reside and which are apportioned by population.*** At least two (2) Commissioners shall be elected every two (2) years.

5. The office of Commissioner shall be part-time.

6. Elections for the Commission shall be non-partisan.

Section 4. Qualifications, Removal, and Vacancy.

1. All qualified electors of Anaconda-Deer Lodge County are eligible for election to the Commission.

2. No Commission member shall hold any other elective public office or be employed by Anaconda-Deer Lodge County.

3. The office of Commissioner shall become vacant upon the member's:

a. death.

b. resignation.

c. loss of eligibility for election.

d. violation of any express prohibition of this Charter.

e. conviction of a felony by a court of competent jurisdiction.

4. ***When any vacancy occurs on the County Commission, the vacant position shall be open and subject to nomination and election at the next general county election in the same manner as the election of any other member of the Commission, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification, the Commission shall, by majority vote of the members, appoint a person with the qualifications required by law and this charter, within 30 days of the vacancy to hold the office until his or her successor is elected and qualified.***

5. The Commission shall be the judge of the election and qualifications of its members and of the grounds for removal from office. A member charged with conduct constituting grounds for loss of office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

Section 5. Compensation.

1. The Commission shall set the annual salary of its members by ordinance. The ordinance shall be adopted at least six (6) months prior to the next Commission election and shall not become effective until the date for qualification set by state law, following the next Commission election.

2. In addition to salary, Commission members shall receive actual and necessary expenses incurred in the performance of their duties of office, as approved by the Commission.

Section 6. Organization and Procedures.

1. There shall be a chairman/chairwoman of the Commission elected by the Commission. The chairman/chairwoman shall be the official representative of Anaconda-Deer Lodge County and shall have those powers and duties delegated by the Commission.

2. The Commission shall adopt by ordinance a set of written rules to govern its organization and procedures consistent with state law.

3. The Commission shall provide for the keeping of a journal of its proceedings.

4. All meetings shall be open to the public except in such circumstances as are prescribed by state law.

5. All documents and records of the Commission shall be public records and shall be made available for examining and copying.

6. A majority vote of the entire Commission shall be required for all official actions of the Commission. A minimum of four (4) Commission members must be present when official actions are taken by the Commission.

Section 7. County Boards, Commissions, and Committees

1. All county boards, commissions, and committees appointed by the county Commission shall be established by a separate ordinance. The establishing ordinance for each board shall comply with the following requirements:

a. the purpose, powers and duties, membership, and term of office of the board, commission or committee shall be clearly defined.

b. the frequency of meetings of the board shall be set forth.

c. the duration of existence of the board shall be set forth.

d. if the board is required for any purpose by State law, the law shall be referenced on the ordinance.

e. the ordinance shall specify how often the board, commission, or committee shall be required to report back to the Commission.

f. the ordinance shall specify whether any staff, employees, or commissioners may serve on the board, commission, or committee and whether any Commissioner may chair that board or committee.

2. The Anaconda-Deer Lodge County Commission shall post and advertise all board openings, vacancies and expired terms within 30 days of the notice of such vacancies. The Anaconda-Deer Lodge County Commission shall wait 30 days after advertising or posting begins prior to filling such vacancy.

Article IV
Chief Executive

Section 1. ***Appointment, Removal and Vacancy***

1. The Anaconda Deer Lodge County Chief Executive shall be appointed by the County Commission for an indefinite term on the basis of merit only and may be removed only by a majority vote of the whole number of the Commission.

2. The terms of employment, duties, and compensation of the Chief Executive shall be set forth in a contract consistent with this Charter and approved by the County Commission.

3. A vacancy in the office of Chief Executive shall be filled by appointment by the County Commission within 120 days of the announcement of a pending vacancy.

4. The Chief Executive shall not hold any other elective public office or be employed by anyone other than Anaconda-Deer Lodge County.

5. By letter filed with the Commission, the Chief Executive shall designate an acting Chief Executive to perform the duties of the Chief Executive during his/her temporary absence of disability. During such absence or disability, the Commission may revoke such designation at any time, and appoint another officer of the local government to serve until the Chief Executive shall return or his/her disability shall cease.

Section 2. Duties.

1. The Anaconda-Deer Lodge County Chief Executive shall be the Chief Executive and chief administrative officer of the local government and shall be responsible for all administrative functions of Anaconda-Deer Lodge County, unless otherwise provided by this Charter.

2. The CEO's responsibilities shall be to:

a. enforce laws, ordinances, and resolutions.

b. direct, supervise, and administer all departments and agencies of Anaconda-Deer Lodge County.

c. appoint and remove department heads with the approval of the Commission.

d. appoint, remove and supervise employees in consultation with the department heads.

e. prepare the Commission agenda.

f. attend Commission meetings unless excused by the Commission and may participate in discussions.

g. execute bonds, notes, contracts and written obligations of the local government, subject to Commission approval.

h. prepare and present the budget to the Commission for its approval and execute the budget adopted by the Commission.

I. recommend measures to the Commission.

j. report, as the Commission may require, on the affairs and financial condition of the local government and prepare and present a written annual report.

k. recommend revisions of the Administrative Code and Personnel System.

l. carry out policies established by the Commission and perform other assignments as required by the Commission.

Article V
Administration

Section 1. General.

The activities under the direction and supervision of the Chief Executive shall be distributed among such departments and agencies as are established by this Charter or may be established thereunder by ordinance of the Commission in order to execute and enforce policies as determined by the Commission and to carry out obligations imposed on Anaconda-Deer Lodge County by state law.

Section 2. Administrative Code.

1. The Administrative Code shall provide the complete plan of organization and structure of Anaconda-Deer Lodge County.

2. The Administrative Code shall include:

a. the departmental organization of the government, the nature and scope of each department, and rules and procedures for department operation.

b. comprehensive budget procedures for the government in accordance with state law.

c. procedures regarding boards, Commissions, advisors, studies and any other government activities.

Section 3. Personnel System.

1. The Anaconda-Deer Lodge County Personnel System shall provide for hiring on the basis of merit and shall include a salary schedule, provisions for vacations, sick leaves, insurance and other benefits for all employees in accordance with provisions of this Charter; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an equitable Personnel System including honoring of all collective bargaining agreements.

2. State laws with regard to nepotism shall apply.

Article VI
County Attorney

Section 1. Duties.

The County Attorney shall be the prosecuting attorney and the legal counsel to Anaconda-Deer Lodge County and shall have those duties set by state law.

Section 2. Election, Qualifications, Removal, and Vacancy.

1. The County Attorney shall be elected for a four (4) year term on a non-partisan ballot, shall have qualifications set by state law, and may be removed from office as provided by state law.

This amendment shall become effective on January 1, 1997.

2. In the event of a vacancy, the Commissioners shall appoint a qualified

person to fill the vacancy until the next regular Anaconda-Deer Lodge County election at which time the remainder of the term shall be completed as required by law.

Section 3. Compensation.

The County Attorney shall be compensated according to state law.

Article VII
Popular Controls

Section 1. Initiative, Referendum, and Recall.

The people of Anaconda-Deer Lodge County may exercise initiative, referendum, and recall as provided by state law.

Section 2. Open Government.

All meetings and records of Anaconda-Deer Lodge County shall be open to the public as provided by state law.

Article VIII
Service Districts

Section 1. General Services District.

1. The total area of Anaconda-Deer Lodge County shall consist of a General Service District in which all property shall be taxed at a rate based on the level of services actually provided.

2. The Commission shall determine by ordinance the rates of taxation except that no differential tax for new services or increased levels of service can be imposed until provision has been made for delivery of the service.

3. Any ordinance establishing differential tax rates shall be subject to complete public hearing procedures as provided by law.

Section 2. Special or Local Improvement Districts.

The Commission may create Special or Local Improvement Districts as provided by law.

Article IX
Miscellaneous Provisions

Section 1. Charter Amendment.

This Charter may be amended as provided by state law.

Section 2. Effective Date.

1. This Charter shall become effective on May 2, 1977 with the Amended Charter becoming effective on June 8, 1993.

2. Charter amendments approved by the voters on November 7, 2006 become effective on January 1, 2007.

3. Members of the governing body and all other elected officers holding office at the time the charter amendments become effective may continue in office and in the performance of their duties until the expiration of their term of office.

Section 3. Judicial.

The offices of Police Judge, Justice of the Peace, and Constable shall be as provided by state law.

Section 4. Separability.

If any section, sub-section, paragraph, sentence, clause, or phrase of this Charter, or the application thereof to any person or circumstance, should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions or other applications of this Charter.

Article X
Chief of Law Enforcement

Section 1. ***Appointment, Compensation and Duties.***

The Chief of Law Enforcement Officer shall be appointed, using qualifications

set forth by the County Commission, by the chief-executive with the approval of the Anaconda-Deer Lodge County Commission.

Section 2. Compensation.

The Commission shall set the salary and other benefits of employment of the Chief of Law Enforcement.

Section 3. Duties.

1. Preserve the peace;

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

3. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his/her knowledge;

4. Perform the duties of a humane officer within the County with reference to the protection of animals;

5. Attend all courts, except municipal, justices' and city courts, at their respective terms or sessions held within the County and obey their lawful orders and directions;

6. Take charge of, maintains and manages the detention center and the inmates therein;

7. Serve all process or notices in the manner prescribed by law;

8. Take charge of and supervise search and rescue units and their offices whenever search and rescue units are called into service; and

9. Directs and supervises all enforcement officers; conducts criminal investigations;

10. Enforces all laws, ordinances, and resolutions; manages traffic control and parking;

11. Complies with personnel procedures and the budget established by the Commission;

12. Directs and supervises the operation of the 911 Center;

13. Performs such other duties as are required by law or ordinance, at the direction of the Chief Executive.

We, the Study Commissioners of the Anaconda-Deer Lodge consolidated government, do hereby certify that this amended charter is the proposed plan of government approved for voter consideration by the Anaconda-Deer Lodge Study Commission.

In testimony whereof, we set our hands.

William Johnson, Chair

Wydette Demachki, Vice-Chair

Lorraine Biggs-Gallik

James Bouck

Kevin Hart

SEAL

Done at Anaconda, Montana this 23 day of AUGUST, 2006.

ATTEST: _____
County Clerk and Recorder

CERTIFICATE C

ESTABLISHING THE DATE OF THE ELECTION

AT WHICH AMENDMENTS TO THE ANACONDA-DEER LODGE CHARTER

SHALL BE PRESENTED TO THE ELECTORS

OF

ANACONDA-DEER LODGE

The amendments to the Anaconda-Deer Lodge Charter, proposed by the Anaconda-Deer Lodge Local Government Review Study Commission, shall be submitted to the voters of Anaconda-Deer Lodge at a special election to be held in conjunction with the general election on November 7, 2006.

We, the Study Commissioners of the Anaconda-Deer Lodge consolidated government, do hereby certify that this is the date of special election approved by the Anaconda-Deer Lodge Study Commission.

In testimony whereof, we set our hands.

William Johnson, Chair

Wydette Demachki, Vice-Chair

Lorraine Biggs-Gallik

James Bouck

Kevin Hart

SEAL

Done at Anaconda, Montana this 23 day of August, 2006.

ATTEST: Marie Hatcher
County Clerk and Recorder

CERTIFICATE D

Instructions to voters: Place an X in the boxes which express your preferences.

OFFICIAL BALLOT
BALLOT ON ANACONDA-DEER LODGE CHARTER AMENDMENTS

PLEASE VOTE ON ALL FIVE ISSUES

Vote for One

X FOR adoption of the charter amendment requiring that the Chief-Executive be appointed by majority vote of the Anaconda-Deer Lodge County Commission, as proposed by the Anaconda-Deer Lodge Local Government Review Study Commission.

X FOR the existing form of government with an elected Chief-Executive.

Vote for One

X FOR adoption of the charter amendment requiring that the Chief Law Enforcement Officer be appointed by the chief-executive with the approval of the Anaconda-Deer Lodge County Commission, as proposed by the Anaconda-Deer Lodge Local Government Review Study Commission.

X FOR the existing form of government with an elected Chief Law Enforcement Officer.

Vote for One

X FOR the adoption of the charter amendment requiring that County Commissioners be elected by district in which candidates must reside, as proposed by the Anaconda-Deer Lodge Local Government Review Study Commission.

X FOR the existing form of government with candidates for the County Commission elected at large.

Vote for One

X FOR adoption of the charter amendment rescinding and removing the requirement that a vacancy on the County Commission be filled by appointment of the person receiving the second highest total of votes in the previous election for that district, as proposed by the Anaconda-Deer Lodge Local Government Review Study Commission.

X FOR the existing form of government retaining the requirement that a vacancy on the County Commission be filled by the appointment of the person receiving the second highest total of votes in the previous election or that district.

Vote for One

X FOR adoption of the charter amendment requiring the County Commission to fill a vacancy in the office of Chief Executive within 120 days of the announcement of a pending vacancy, as proposed by the Anaconda-Deer Lodge Local Government Review Study Commission.

X FOR the existing form of government with no established time limit for filling any vacancy in the office of Chief Executive.

We, the Study Commissioners of the Anaconda-Deer Lodge consolidated government, do hereby certify that this is the official ballot approved by the Anaconda-Deer Lodge Study Commissioners

In testimony whereof, we set our hands.

William Johnson, Chair

Wydette Demachki, Vice-Chair

Lorraine Biggs-Gallik

James Bouck

Kevin Hart

SEAL

Done at Anaconda, Montana this 23 day of August, 2006.

ATTEST: Marie Hatcher
County Clerk and Recorder

176672

176672
#5212

Anaconda Deer-Lodge Local Govt. Review Study Commission

Final Report to Public

FILED
August 29 2006
25 11 o'clock A.M.
MARIE HATCHER
County Recorder
Deborah R DeLong
Deputy
0 fee

Local Government Study Commission
final report for Anaconda-Deer Lodge County.
J 82. 0486
L24 Lgsc

1996
FINAL REPORT

ANACONDA-DEER LODGE COUNTY
STUDY COMMISSION

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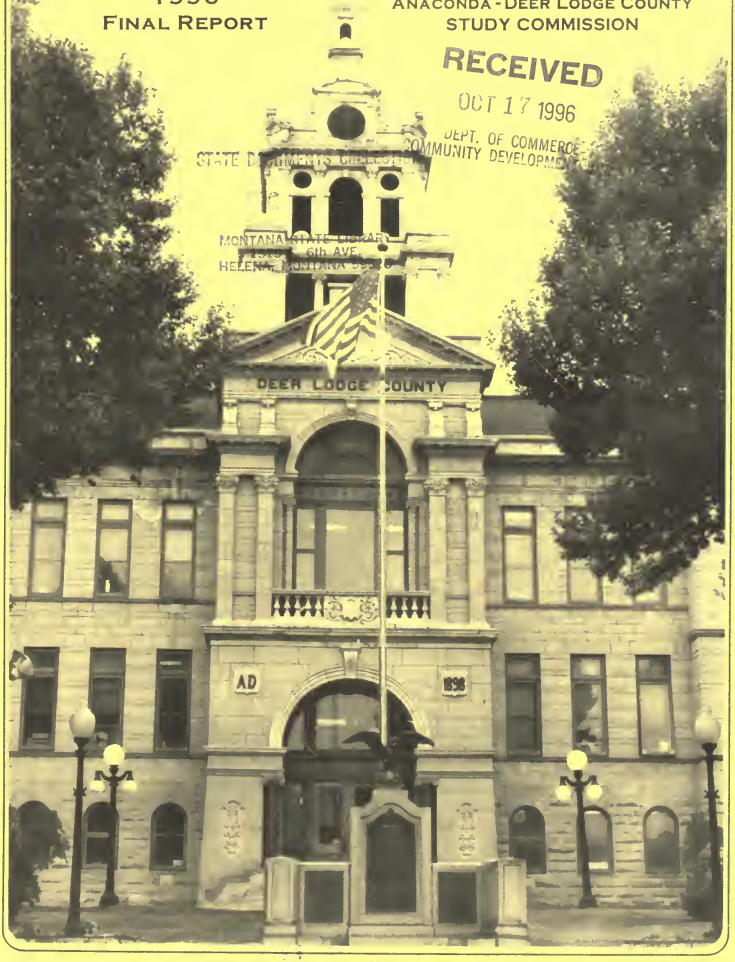

ANACONDA-DEER LODGE COUNTY STUDY COMMISSION

1996 FINAL REPORT

To the Citizens of Anaconda-Deer Lodge County:

The Anaconda-Deer Lodge County Study Commission elected by the voters on November 8, 1994, or thereafter appointed, present this tentative report to the citizens of this county.

The Study commissioners logged 53 regular meetings that included 650 group hours, held four public hearings, and conducted a public survey -- all to receive public participation. The Study commissioners also interviewed about 90 percent of the county employees, department heads and board members. We also interviewed current and former city-county commissioners and former study commissioners, as well as one former city-county manager and the current chief executive.

Our primary goal is to assess our strengths and weaknesses within the Charter form of city-county government. After an intensive study of almost two years, it is the decision of the Study Commission to recommend changes in the Charter that will provide a governmental framework to meet the changing needs of this County.

We have identified those areas in city-county government that work well, work reasonably well, and work inadequately. We want to make local government more efficient and productive within the whole Charter government.

We are not concerned with quick fixes, but long-term, real solutions to these problem areas.

The responsibility is now for citizens of the city and county to examine the advantages and disadvantages of the proposed recommendations to the Charter. This is a unique opportunity for Anaconda-Deer Lodge County citizens to participate in making their local government more accountable and proactive. Government that works best is that which has citizen involvement.

As a result of citizen involvement, the Anaconda-Deer Lodge County Study Commission recommends five Charter changes, each covering areas where problems were identified.

We, therefore, recommend the following changes:

PROPOSED CHARTER AMENDMENTS	PRESENT FORM OF GOVERNMENT	PROPOSED AMENDMENT	EVALUATIVE COMMENTS
#1. To require all county boards be created by an ordinance with specific requirements.	Currenty, the Charter contains no specific requirements for creating county boards.	Would require each Board to be created by an ordinance with specific requirements, such as defining power & duties, duration, frequency of meetings, etc.	Provides a standarized method of creating boards. All boards will know their purpose, responsibilites and duties.
#2. To give the A.D.L.C. Chief Executive veto power over ordinances and resolutions, subject to override by the County Commission	The Chief Executive currently has no veto power.	Would allow the Chief Executive to veto ordinances and resolutions. The County Commission may override the veto by a vote of 4 Commissioners.	Provides check and balances between the Commission & Chief Executive. Now that the Chief Executive is elected, veto power will promote better cooperation between the Executive & Legislative Branches.
#3. To eliminate the Advisory Council & change the method of filling vacancies on the County Commission	15 member Joint Advisory Council, consisting of 3 members from each Commission District. Commission vacancies are appointed from the Advisory Council by the County Commission	Advisory Council eliminated. Commission vacancies filled by candidate for that District who received second highest vote total in previous election. If that candidate is not eligible, Commission takes applications and appoints.	Advisory Council has no real authority. There is a lack of citizen interest, as shown by 7 vacant seats on the current council. Procedure for filling vacancies more precise. Vacancy would be filled by someone who actually ran for office.
#4. To change the method of election of the County Attorney from Partisan to Non-Partisan.	County Attorney elected on a partisan ballot.	County Attorney elected on a non-partisan basis.	All other County elected officials are already elected on a non-partisan basis. Gives all Citizens a chance to vote for Co. Attorney, regardless of party affiliation.
#5. To define the duties and limitations of the Chief of Law Enforcement.	Currently, duties and limitations of Chief of Law Enforcement are not defined in the City-County Charter. Chief may be appointed to head other departments.	Specific duties and limitations would be clearly defined. Chief would be prohibited from heading other departments except as specified in the Charter.	Now that the Chief of Law Enforcement is elected, duties should be defined in the Charter as other County Officials duties are defined. The Chief of Law Enforcement position already has numerous responsibilities: Police, Jail, 911 Center, Animal Control, & Search & Rescue. We believe any additional duties over extend the position and should be handled by other officials.
Full Final report of the A.D.L.C. Study Commission is available at: Room #101, Courthouse, 800 S. Main St. Anaconda, MT 59711			

Proposed Charter Amendment No. 1
A ballot issue to require all county boards be created by an ordinance with specific requirements as set forth in proposed charter amendment number one.

_____ **For adoption of the amendment to the Anaconda-Deer Lodge County Charter to require all city-county boards be created by ordinance with specific requirements as proposed by the Anaconda-Deer Lodge County Study Commission.**

_____ **For the existing form of government, which does not require city-county boards be created by ordinance with specific requirements.**

The Charter would be amended by adding Section 7 to Article 3 and would read as follows:

Section 7.

1. All county boards, commissions, and committees appointed by the county commission shall be established by a separate ordinance. The establishing ordinance for each board shall comply with the following requirements:

   A. The purpose, powers and duties, membership, and term of office of the board, commission or committee shall be clearly defined.

   B. The frequency of meetings of the board shall be set forth.

   C. The duration of existence of the board shall be set forth.

   D. If the board is required for any purpose by State law, the law shall be referenced on the ordinance.

   E. The ordinance shall specify how often the board, commission, or committee shall be required to report back to the commission.

   F. The ordinance shall specify whether any staff, employees, or commissioners may serve on the board, commission, or committee and whether any commissioner may chair that board or committee.

2. The Anaconda-Deer Lodge County Commission shall post and advertise all board openings, vacancies and expired terms within 30 days of the notice of such vacancies. The Anaconda-Deer Lodge County Commission shall wait 30 days after advertising or posting begins prior to filling such vacancies.

3. This amendment shall become effective on January 1, 1997. All existing boards must comply with this section by January 1, 1999.

Findings/Conclusions:

Approximately 75 percent of the board members were interviewed. Of 56 boards, about 25 do not meet regularly or have not met at all for a long period of time. Many boards were created without any set direction, rules, responsibilities, or authority. There is no prescribed or timely method of reporting to the Commission or the Chief Executive. The public is not generally informed when vacancies occur.

The additional requirements to establish boards will result in better operation of the government.

Advantages:

Provides a standardized method of creating boards which would improve consistency in the way boards are created and operate.

Any board would know its purpose, responsibilities, and authority when created. The board would know how long the board would function and frequency of meetings, who and when to report to of its activities. The notice requirement would possibly give the opportunity for new members to be appointed to boards.

Disadvantages:

It would take longer to create boards. Boards created by ordinance would require public hearings and additional steps before a board is created.

Economic Impact:

None.

Proposed Charter Amendment No. 2
A ballot issue to give the Anaconda-Deer Lodge County chief executive veto power over ordinances and resolutions, subject to override by the county commission, as set forth in proposed charter amendment number two.

_____ **For adoption of the amendment to the Anaconda-Deer Lodge County charter to give the chief executive veto power over ordinances and resolutions, subject to override by the county commission, as proposed by the Anaconda-Deer Lodge County Study Commission.**

_____ **For the existing form of government, in which the Anaconda-Deer Lodge County chief executive has no veto power.**

The Charter would be amended by adding Section 4. Veto Power to Article IV, Chief Executive, and would read as follows:

Section 4. Veto Power.

A. The Chief Executive may veto ordinances and resolutions subject to override by a vote of four or more commissioners of the County Commissioners.

B. This Amendment shall become effective on January 1, 1997.

Findings/Conclusions:

After several months of studying and reviewing the local government the Study Commission found it necessary for the Chief Executive to have veto power. Veto power would not only strengthen the position of the Chief Executive but also strengthen the county government as a whole. The Study Commission heard from several individuals that this is needed and can be used as a system of checks and balances for the County. This is a device that the Chief Executive can use to give more control and accountability to the citizens of the county.

The Chief Executive is a full-time position that should have an in-depth knowledge of County operations; therefore, the individual should have the ability to veto ordinances and resolutions he/she believes not beneficial to the citizens of the county.

It would be a similar set up to the State (Governor) and Federal Government (President) having veto power.

Advantages:

Provides check and balances between the Commission and Chief Executive, opens communication and discussion within local government, and makes room for compromise. Chief Executive gains more voice in decisions.

Example: The CEO prepares and submits the budget to the Commission. Right now the CEO can submit a balanced budget to the Commission and can then shift the responsibility to the Commission who may adjust the figures whereby the budget is no longer balanced. The veto power would ensure the CEO and Commission having dialogue to balance the budget. If the County Commission were intent upon spending considerable more money in the budget than the CEO recommended, instead of the CEO being forced to sit back and go along with the Commission, the CEO would have the ability to veto the budget and that would make sure four of the five commissioners would have to be in agreement to override the veto.

Disadvantages:

Can create tension between the Commission and Chief Executive. Can slow down the process. The veto could be used frequently and abused. Shift of power from Commission to Chief Executive.

Commission loses some power in that it would require four commissioners to pass something instead of three commissioners in the event of a veto.

Economic Impact:

None.

Proposed Charter Amendment No. 3

A ballot issue to eliminate the Advisory Councils and to change the method of filling vacancies on the Anaconda-Deer Lodge County Commission, as set forth in proposed charter amendment number three.

_____ **For adoption of the amendment to the Anaconda-Deer Lodge County charter to eliminate the Advisory Councils and change the method of filling vacancies on the county commission as proposed by the Anaconda-Deer Lodge County Study Commission.**

_____ **For the existing form of government and retention of the Advisory Councils and the existing method of filling vacancies on the county commission.**

The Charter would be amended by deleting Section 3. Advisory Councils from Article 7, Popular Controls and amending Article 3, Commission, Section 4, Sub-Section 4 to read as follows:

4. A. In the event of a vacancy on the County Commission, the candidate for the vacant commission district receiving the second highest total of votes in the previous election for that district shall assume the office of county commissioner. In the event that candidate is ineligible, unable or unwilling to assume the office of county commissioner, the remaining commission shall advertise the vacancy, accept applications from eligible citizens, and chose an eligible citizen to fill the vacancy.

B. This amendment shall become effective on January 1, 1997.

Findings/Conclusions:

One problem area that was identified during the course of the study by research, discussion, public hearings, testimony of public officials and citizen surveys indicated that the Advisory Councils have not functioned as intended at the time of consolidation and development of the Charter.

Since its inception the Advisory Councils have had difficulty in maintaining membership and having a quorum to conduct meetings. There have been periods of time since 1977 when the Advisory Councils ceased to function.

Many times there were only seven or eight people running for the 15 positions and the Commission did not fill the vacancies. It was not clearly defined in the Charter which Advisory Council member would fill a Commission vacancy -- the one with the most seniority, the one with the most votes, or at will of the Commission. In fact, in the past the Commission has appointed somebody to the Advisory Council and then elevated that person immediately to the Commission thereby essentially circumventing existing Advisory Council members.

The community has not shown a sufficient interest in either volunteering or running for the Advisory Council and many members did not show up for the monthly meetings or Commission meetings. The survey revealed the majority of the population was not aware of the Advisory Councils and did not know the purpose for having same.

Therefore, it is being proposed to amend the Charter by eliminating the Advisory Councils and change the method of filling vacancies on the County Commission.

Advantages:

The procedure for replacing a Commissioner would be precise with no interpretation being needed and it would eliminate the debate between commissioners for replacing a commissioner. The person that would become a replacement commissioner has already demonstrated an interest in serving Anaconda-Deer Lodge County by running for the office.

Disadvantages:

With the current policy of replacing a commissioner, the Commission has up to three people from which to choose. Fewer people would be involved in local government.

Economic Impact:

There would be a slight cost savings in photocopies and postage for material being distributed to 15 persons on a weekly and monthly basis and the elimination of monthly over-time secretarial wages.

Proposed Charter Amendment No. 4

A ballot issue to change the method of election of the county attorney from partisan to non-partisan, as set forth in proposed charter amendment number four.

_____ **For adoption of the amendment to the Anaconda-Deer Lodge County Charter to change the method of election of the county attorney from partisan to non-partisan, as proposed by the Anaconda-Deer Lodge County Study Commission.**

_____ **For the existing form of government in which the county attorney is elected on a partisan basis.**

Article 6, Section 2, Subsection 2 would be amended to read:

A. The County Attorney shall be elected for a four (4) year term on a non-partisan ballot, shall have qualifications set by state law, and may be removed from office as provided by state law.

B. This amendment shall become effective on January 1, 1997.

Findings/Conclusions:

The Secretary of State's Office acknowledges there are currently four non-partisan county attorneys in the State of Montana.

If approved, this amendment shall go into effect on January 1, 1997. However, the County Attorney elected in 1996 shall complete his four-year term.

Advantages:

It will conform with the other elected offices in Anaconda-Deer Lodge County. In a 1995 survey that was conducted, 65 percent of the people chose non-partisan for all offices. This would give everyone a chance to vote in the primary election. The final decision is made at the general election when more voters will turn out. Shorter transitional period.

Disadvantages:

The proposal would weaken local political parties by eliminating the last local partisan office. It eliminates a party vote.

Economic Impact:

None.

Proposed Charter Amendment No. 5

A ballot issue to define the duties and limitations of the position of chief of law enforcement of Anaconda-Deer Lodge County, as set forth in proposed charter amendment number five.

_____ **For adoption of the amendment to the Anaconda-Deer Lodge County Charter to define the duties and limitations of the position of chief of law enforcement, as proposed by the Anaconda-Deer Lodge County Study Commission.**

_____ **For the existing form of government, in which the duties and limitations of the chief of law enforcement are not defined.**

Article 11, Section 1, Qualifications, Election, Removal, and Vacancy, Subsection 3 would be amended to read:

3. The Chief of Law Enforcement shall not hold any other public office or be employed by anyone other than Anaconda-Deer Lodge County, and shall not be the department head of, or supervise, any other department of local government.

Article 11, Section 2, Compensation, and Section 3, Duties, would be amended to read:

Section 2. Compensation

The Commission shall set the salary and other benefits of employment of the Chief of Law Enforcement.

Section 3. Duties

The Chief of Law Enforcement's responsibilities shall be to:

1. Preserve the peace;

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

3. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his/her knowledge;

4. Perform the duties of a humane officer within the County with reference to the protection of animals;

5. Attend all courts, except municipal, justices' and city courts, at their respective terms or sessions held within the County and obey their lawful orders and directions;

6. Take charge of, maintains and manages the detention center and the inmates therein;

7. Serve all process or notices in the manner prescribed by law;

8. Take charge of and supervise search and rescue units and their offices whenever search and rescue units are called into service; and

9. Directs and supervises all enforcement officers; conducts criminal investigations;

10. Enforces all laws, ordinances, and resolutions; manages traffic control and parking;

11. Complies with personnel procedures and the budget established by the Commission;

12. Directs and supervises the operation of the 911 Center;

13. Performs such other duties as are required by law or ordinance, at the direction of the Chief Executive.

Section 4. This Amendment shall become effective on January 1, 1997.

Findings/Conclusions:

The current language in the Charter concerning the elected position of Chief of Law Enforcement was adopted in 1993, after the voters overwhelmingly approved a proposal to make the Chief's position elected. However, no job duties were listed in the Charter. The Charter does list job duties for the Chief Executive, Commission, and County attorney. (The duties for County Attorney simply references state law.)

Our proposed amendment incorporates various duties from the State laws concerning sheriffs, police chiefs, and the county administrative code. We believe it was necessary to specifically list what the duties and responsibilities of the Chief of Law Enforcement are.

To prepare for making this recommendation, the Study Commission interviewed seven members of the current Law Enforcement Department, the Commission, the Chief Executive, the Police Commission, the County Coroner and Deputy Coroners, the Clerk and Recorder, several Ambulance Attendants, and the Chief of Law Enforcement. In addition, one public hearing was held specifically concerning this proposal, which twenty-seven people attended. In addition, the Study Commission has reviewed Charters for all other Montana cities with self-governing powers, as well as Butte-Silver Bow, which is also a self-governing power consolidated city-county. The Study Commission Chairman also conducted telephone interviews with the Butte-Silver Bow Sheriff and with the Powell County Sheriff.

Advantages:

1. Job duties and responsibilities list. The Study Commission believes that there should be no confusion or ambiguity in what a person is expected to do in their job. Currently our Charter invites confusion. It is unclear whether the duties of a sheriff or a police chief apply to our Chief of Law Enforcement, or whether some mixture applies.

   The duties listed consist of duties obtained from three sources; state law concerning sheriffs, state law concerning police chiefs, and the County Administrative Code. These duties give no new authority to the Chief of Law Enforcement, in fact, all of these duties have been performed by the Chief since consolidation. However, clarity is provided; there will be no more confusion about what duties the Chief does or does not have.

2. Prohibition on being the head of another department. This proposal would change the current operation of government in two ways; the Chief of Law Enforcement would no longer be allowed to serve as head of the Ambulance Department, or as the County Coroner. We believe these changes are beneficial to the county. The Chief of Law Enforcement already has more employees to supervise than any other department head. The police department, with the 911 center and jail consume over one-third of the entire county budget. Simply put, there is more than enough work for the Chief without imposing extra duties as Coroner or head of the Ambulance Department.

   There is also an issue of checks and balances involved. There are 12 other counties in Montana in which sheriff, coroner and police chief duties are all consolidated. None of these counties has a population over 5,000 people. All counties with an urban area have separate sheriffs and police chiefs or coroners. Twenty-nine counties have consolidated coroner and sheriff positions, but the larger cities in those counties have a separate police chief. We believe it is dangerous to place too much power in one person's hands, and that checks and balances on power are a benefit to local citizens.

   Nothing in the proposal would prevent any police officer other than the Chief from being Coroner. By having two separate individuals accountable, a check and balance system is established. If another officer were appointed as Coroner, disadvantage number one listed below would not apply.

Disadvantages:

1. The current tradition has been for the Chief of Law Enforcement to also be Coroner. (Although nothing in the current Charter <u>requires</u> this to be the case.) It has been argued that keeping the Chief as Coroner maintains police control of the occasional homicide or suspicious death scene, and helps to facilitate cooperation and to preserve evidence.

2. Prohibiting the Chief from running other departments could limit flexibility of local government to make cuts and to consolidate other departments with the Department of Law Enforcement.

Economic Impact:

The addition of specific duties will have no impact on the city-county budget, since all of said duties are already being performed by the Chief of Law Enforcement. The proposal to forbid the Chief of Law Enforcement from supervising any other department would impact the Ambulance and Coroner budgets. The Ambulance Department could be supervised by one of the current co-supervisors with little or no impact on the budget. The Coroner budget currently does not include the Deputy Coroners overtime pay, so it is not possible to determine what impact the proposal would have on the budget without having a complete picture of the total cost of the current Coroner's operation.

In addition, the County pays the Coroner a $3,708 per year salary. About 80% of the Coroner calls are currently handled by Deputy Coroners. The Coroner currently handles 20% of Coroner calls, does routine scheduling and bookkeeping for $309.00 per month. It is quite likely that another person could be found to handle the workload of the Coroner position for that amount, who may also do more hands on work, saving some of the overtime money paid to the Deputy Coroners.

Dated this 13th day of August, 1996.

Respectfully submitted,

Jake Maciag

Jake Maciag, Study Commission Chairman

Thomas J. Radonich

Tom Radonich, Vice-Chairman

Shirley Kelly

Shirley Kelly

Mike Grayson

Mike Grayson

Ed McCarthy Jr.

Ed McCarthy

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TDD: (406) 444-2978

November 14, 1996

LEASE RETURN

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Mr. Chambers:

In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find the **final** copy of Beaverhead County's decision regarding the 1994 study commission.

Sincerely,

MARLENE A. HUGHES
Program Specialist
444-1458

Enclosure

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JUN 1 1998
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FINAL REPORT OF THE BEAVERHEAD COUNTY GOVERNMENT STUDY COMMISSION

Before outlining our findings and recommendations, we want to publicly thank some people. Lynnis Clinton served as our Administrative Assistant and provided invaluable help in obtaining information for us and tabulating our questionnaire. We also particularly appreciate the vast amount of work that Al Schulmeyer of Wisdom did for us in gathering a great deal of information about the tax picture in Beaverhead County and preparing visual aids for us to use at our meetings. His attendance at and participation in the public meetings was also appreciated.

All of the public officials of Beaverhead County were most helpful in providing insight into their duties, responsibilities and problems.

We would also like to thank those who took the time to complete and return our questionnaire and, of course, those who attended the public meetings in Dillon, Lima and Wisdom.

When the final report of the Study Commission is reviewed by the voters, they should be reminded that the commission is not a regulatory or investigative body. It has no powers other than to review the existing county government and make recommendations to the voters as specified under state law.

ISSUES AND CONCERNS IDENTIFIED BY THE STUDY COMMISSION

Probably the major concerns expressed at our public meetings concerned the lack of representation of the outlying areas on the Board of County Commissioners, and problems associated with law enforcement, roads, weed control and taxes. Difficulties in communicating with all of the county officials was expressed at the Lima meeting and in response to those concerns, the Board of County Commissioners established a toll free number so that anyone in the county can contact any county office toll free during usual office hours.

Since operation of the road department, week control program and the amount of taxes levied all fall under the jurisdiction of the Commissioners we could no nothing more than pass those concerns to them, Please see the list of recommendations that are a part of this report.

The County Study Commission considered a number of ways that the County Commissioners' districts might be changed. It appeared to the Study Commission that, given the State Statutes in effect, no changes could be made unless the voters approved a Charter Form of county government. The Study Commission does not believe such a change would meet with enough voter approval to warrant the costs of writing the Charter and and the subsequent election.

In considering the perceived lack of representation of the outlying areas on the Board of county Commissioners, the establishment of "Community Advisory Councils" was suggested. The Board has indicated to the Study Commission that they would favor establishing such councils on a trial bases. Please see recommendation No. 1

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August 24, 2005

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RE: Local Government Study Commission Reports

As required in 7-3-187, MCA, we are required to forward to the State Library a copy of the final reports of local government study commissions that we receive in our office. Enclosed is a copy of the City of Belgrades's 2004 Local Government Study Commissions report for your files.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Program Specialist
Local Government Services Bureau/Systems
841-2900

Enclosure

Contact: James Kammerer – 444-5432
State Library

BELGRADE CITY STUDY COMMISSION FINAL REPORT

To the citizens of the City of Belgrade:

First of all we would like to thank God for the City of Belgrade and all of its fine Citizens.

The Belgrade City Study Commission elected by the voters or appointed by city council present this final report to the citizens of this city.

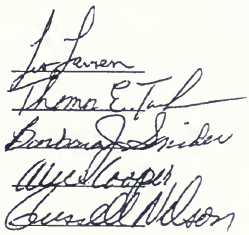
The purpose of the study commission, as defined in state law, is to "study the existing form and powers of our city government and procedures for delivery of local government services and compare them with other forms available under the laws of the state." If some change is deemed necessary, the study commission may submit such proposed change to the electors.

In the conduct of their review the study commission has sought advice and information from a number of people in the city. Opinions and recommendations were solicited from local government officials, and citizens of the City of Belgrade. All meetings of the study commission were open to the public. Public hearings were held to determine citizen opinion.

As a result of the study commission meetings and advertised public hearing the Belgrade City Study Commission has concluded that there is general consensus that the existing commission/manager with charter form of government has served the City of Belgrade well since its organization, and will continue to do so in the future. We therefore recommend no change in this form of government.

Respectfully submitted.

Les Larsen	Chairman
Thomas Tuck	Member
Barb Snider	Member
Alice Cooper	Member
Mayor Russell Nelson	Ex-officio



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August 19, 1996

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Mr. Chambers:

In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find a copy of the Town of Belt's decision regarding the 1994 study commission.

Sincerely,

MARLENE A. HUGHES
Program Specialist

Enclosure

LETTER TO THE CITIZENS OF BELT, MONTANA

To the Citizens of Belt:

The Belt Local Government Study Commission, elected by the voters on November 8, 1994, or thereafter appointed, present this final report to you, the citizens of Belt.

The purpose of the study commission, as defined in state law is "to study the existing form and powers of a local government and procedures for the delivery of local government services and to compare them with other forms available under the laws of the responsibility of the study commission, to submit a final report recommending no change, or propose amendments to the existing form of government, or offer an alternative form of government to the qualified voters."

In every phase of this review, this study commission sought advice and information from as many people as possible. Opinions and recommendations were solicited from local government officials, county and state officials, community organizations, and citizens. All meetings of the study commission were open to the public. Public hearings were held, and a survey of citizen attitudes was made.

Our recommendations reflect the thoughts and opinions of those who participated in public hearings, and those who responded to the survey, as well as to the efforts of this study commission.

In this final report we recommend no change be made in the existing form of local government. Our concern has been to provide a form of government that will conform to the Montana State Code, and to the procedures now practiced by the local government.

Respectfully submitted,

Belt Local Government Study Commissioners

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STUDIES BUREAU

FINDINGS OF THE STUDY COMMISSION

After a study of almost two years, it is the decision of the Belt Local Government Study Commission that the commission-executive (also called the mayor-council) form of government is the one that best meets the needs of this town.

CERTIFICATE
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT FOR THE TOWN OF BELT

1. The government of the town of Belt shall be organized under the following provisions of Section 7-3-113, MCA, 1985, commission-executive form:

(a) 7-3-201;
(b) 7-3-202 (1);
(c) 7-3-203;
(d) 7-3-212 (2);
(e) 7-3-213 (2);
(f) 7-3-214 (2);
(g) 7-3-215 (2);
(h) 7-3-216 (2);
(i) 7-3-217 (2);
(j) 7-3-218 (2);
(k) 7-3-219 (2);
(l) 7-3-220 (1);
(m) 7-3-221 (3);
(n) 7-3-222 (2);
(o) 7-3-223;
(p) 7-3-224.

2. This form has terms of 4 years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed 20 members.

COMMISSION-EXECUTIVE GOVERNMENT

7-3-201. Commission-executive form. The commission-executive form (which may be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected commission (which may be referred to as the council) and one elected executive (who may be referred to as the mayor) who is elected at large.

7-3-202. Nature of government. The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing

(1) general government powers.

7-3-203. Duties of executive. The executive shall

(1) enforce laws, ordinances, and resolutions;

(2) perform duties required of him by law, ordinance, or resolution;

(3) administer affairs of the local government;

(4) carry out policies established by the commission;

(5) recommend measures to the commission;

(6) report to the commission of the affairs and financial condition of the local government;

(7) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(8) report to the commission as the commission may require;

(9) attend commission meetings and may take part in discussions;

(10) execute the budget adopted by the commission;

(11) appoint with the consent of the commission, all of the boards, except the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

7-3-211. Structural suboptions. The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including on item from each of the choices listed in 7-3-212 through 7-3-224, MCA, 1995.

7-3-212. Administrative assistants. The executive

(2) may appoint one or more administrative assistants to him/her in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive.

7-3-213. Supervision of personnel. The executive may

(2) appoint and remove, with the consent of a majority of the commission, all employees of the local government.

7-3-214. Veto Power. The executive may

(2) veto ordinances and resolutions, subject to override by a two-thirds vote of the commission.

7-3-215. Preparation of budget. The executive may

(2) prepare the budget in consultation with the commission and department heads.

7-3-216. Administrative supervision and control. The executive may

(2) exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

7-3-217. Financial officer. A financial officer (who may be called the treasurer)

(2) shall be appointed by the executive with the consent of the council.

7-3-218. Selection of commission members. The commission shall be

(2) elected by districts in which candidates must reside and which are apportioned by population.

7-3-219. Type of election. Local government elections shall be conducted on a

(2) nonpartisan basis.

7-3-220. Chairman of commission. The commission shall have a chairman who shall be

(1) elected by the members of the commission from their own number for a term established by ordinance.

7-3-221. Presiding officer of commission. The presiding officer of the commission shall be

(3) the executive, who shall decide all the tie votes of the commission, but shall have no other vote. The chairman of the commission shall preside if the executive is absent.

7-3-222. Terms of commission members. Commission members shall be elected for

(2) overlapping terms of office.

7-3-223. Size of commission and community councils. The size of the commission shall be six members, two to be elected from each of three wards. Community councils to advise the executive and commissioners may be authorized by ordinance.

7-3-224. Terms of elected officers. The term of office of elected officials shall be four, and shall be established when the form of government is adopted by the voters.

We, the Study Commission of Belt, do hereby certify that this is the Proposed Plan of Government approved by the Study Commissioners of Belt.

In testimony whereof we set our hands.

Done at 10:00 AM this 21 day of July

Eva E. Stober

Craig Cummings

Philip Kleffner

Local Government Study Commissioners

ATTEST: Joan Fontana

CLERK OF BELT, MONTANA

Big Horn County Government Study Commission Final Report

To the citizens of Big Horn County:

The Big Horn County Study Commission elected by the voters on November 8, or thereafter appointed, present this final report to the citizens of this County.

With regards to a ballot issue please see the Final Report of the City County Joint resolution regarding the transfer of powers of law enforcement.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of our county government and procedures for delivery of local government services and compare them with other forms available under the laws of the state." If some change is deemed necessary, the study commission may submit such proposed change to the electors.

In the conduct of their review the study commission has sought the advice and information from a number of people in the county. Opinions and recommendations were solicited from local government officials and citizens. All meetings of the study commission were open to the public. Public hearings were held to determine citizen opinion and a county wide survey was mailed to all active voters in Big Horn County.

As a result of discussions held and surveys tabulated the Big Horn Study Commission has found tremendous voter apathy toward the process of Government Review. Less than 9 percent of the Active Voters participated in our search for information. Based on those numbers we can not make a recommendation for a change in our present form of Government. We will publish a Supplemental Report with suggestions for our County Government to consider and possible courses of action for voters to pursue if they believe they have a problem that is not being addressed by their local Government Officials.

Respectfully submitted,

Chair

Vice Chair

Member

Secretary

Big Horn County Study Commissioners

SUMMARY OF FINDINGS AND RECOMMENDATIONS
COOPERATIVE STUDY
BIG HORN COUNTY AND CITY OF HARDIN
LOCAL GOVERNMENT REVIEW STUDY COMMISSIONS

FINDINGS:

Following and intensive, year-long study of both the Big Horn County and City of Hardin governments (including extensive interviews with city and county officials, opinion surveys of both city and county residents and several public hearings) the cooperating Local Government Review Study Commissions find that.

1. There is no apparent reason to alter the present "elected county official" form of Big Horn County Government.

2. There is no apparent reason to alter the present "council-mayor" form of Hardin City Government.

3. The delivery of consolidated law enforcement services by the Big Horn County Sheriff's Department is deemed to be unsatisfactory by most of the county and city officials we interviewed and by the great majority of citizens who responded to the opinion surveys or who contacted the Study Commissions directly.

RECOMMENDATIONS:

Based upon our findings set forth above, we unanimously recommend:

1. NO CHANGE in the form of government of either Big Horn County or the City of Hardin.

2. The question of transfering law enforcement services back to the Police Department of the City of Hardin be placed on the ballot for voter consideration.

COMPARISON OF ADVANTAGES AND DISADVANTAGES:

1. ***Advantages:*** We believe and an independent study confirms that deconsolidation of law enforcement services will result in improved law enforcement service for both county and city residents.

2. ***Disadvantages:*** There are no known disadvantages

A copy of the complete final report is available in the County Clerk and Recorder's Office and in Hardin City Hall.

Big Horn County Study Commissioners	***City of Hardin Study Commissioners***
Paul Green	Howard Robinson
Chip Watts	Alex Uffleman
Ellis Murdock, Chairman	Bob Seder, Chairman

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DEPARTMENT OF COMMERCE

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June 12, 1996

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Mr. Chambers:

In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find a copy of the City of Billing's decision regarding the 1994 study commission.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Program Specialist

Enclosure

BILLINGS LOCAL GOVERNMENT REVIEW COMMISSION

1996

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CONNIE WARDELL, Vice-chairman
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BILLINGS
LOCAL GOVERNMENT REVIEW
COMMISSION

P.O. Box 1178
Billings, MT 59103
FAX: (406) 657-8390

GAYLE ROSET, D.D.S., CHAIRMAN
CONNIE WARDELL, VICE-CHAIRMAN
KATHY WALTERS
BILL O'CONNOR
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M. LOU SCHUMAN

FINAL REPORT

Twenty years ago, the citizens of Billings voted for a new form of government. Two years ago, the voters expressed their desire that it was again time for our city government to go through the review process.

A seven member commission was elected in November of 1994. The members of the Billings Study Commission are Kathy Walters, Connie Wardell, Bill O'Connor, Cliff Hanson, Lou Schuman, Dick Clark and Gayle Roset. The City Council appointed Mark Watson as the ex officio member of the commission.

The purpose of the commission, as established by state law, is to study the existing form and powers of our local government and compare them with other forms of government and to report to our community our conclusions.

The Billings Study Commission has been meeting weekly for the past 16 months. The Billings Study Commission's work has been conducted in essentially three phases. The first phase consisted of studying our current form of government and how it serves the public and to identify its strengths and weaknesses. The second phase involved comparing our charter form of government to other forms of local government. The purpose of these comparisons was to determine if the citizens of Billings would be better served by a different form of government. The last phase of the Billings Study Commission's work has been to establish whether or not there were any specific recommendations that should be proposed which would improve our city government.

This review process is not a performance review of the City Council. Its purpose is to evaluate and, if necessary, recommend changes that will provide a good form of government, so that good people can provide the procedures for the delivery of good government services.

The Billings Study Commission's conclusions and recommendations are based on an accumulation of many factors, including public input, research, interview of current and past local government officials, interviews of our city administration and all twelve city department heads, interviews of government officials, persons working under and familiar with other forms of local government, four public hearings, an in-depth review of the Charter, a telephone survey conducted for the Study Commission, formal meetings with the Yellowstone County and Laurel Study Commissions and interviews of the members of the study commission that wrote our Charter.

Do we have the best form of government for the residents of our community? The answer is NO. The Billings Study Commission came to the unanimous realization that the best form of government would be a consolidated form of government with Yellowstone County. The Billings Study Commission was able to identify many positive reasons why a unified form of government would be more beneficial than our current form of government. The Billings Study Commission

believes that the citizens of Billings would have liked to have had the opportunity to consider and have on the ballot a consolidated form of government proposal, but this could not be placed on the ballot unilaterally, and the Billings Study Commission's proposal to work together was rejected by the county study commission.

Is our Charter with its Council-Manager form of government, a good form of government for the city of Billings? The answer is YES. Are there aspects of the Charter that can be improved? The answer is also YES. The Billings Study Commission believes that our Charter is a well written document which will enable our elected officials to continue to provide the city with responsive, professional and efficient services with the flexibility to meet future needs. The Billings Study Commission believes that there are three changes which should be made to improve our form of government.

First, the Billings Study Commission recommends amending the Charter to include an annual performance review of the City Administrator. The Billings Study Commission realizes that this is a current practice of the City Council and the members of the City Council appreciate its importance. The Billings Study Commission believes that the performance review is such a valuable aspect of the council-city administrator relationship, that its inclusion in the Charter will ensure that this beneficial practice continues. This performance review is intended to continue to be a private review between the Council and the City Administrator for their mutual benefit.

The second proposed amendment pertains to the position of mayor. The mayor is the only member of the legislative branch who is elected at large. The mayor is seen as the community political leader and as the policy spokesperson for our government. The Billings Study Commission is proposing that the term of the mayor be four years and limited to two consecutive terms, to equal that of the City Council members. The mayor and city council having equivalent length of terms is an important provision which is also included in the National Civic League's 'Model City Charter'.

The Billings Study Commission's third proposal requires the mayor to vote on all issues and essentially establishes an eleven voting member legislative branch. As Section 2-216 of the Billings Code provides for the Rules of Procedure for council meetings, the voting status of the mayor will not compromise the mayor's position as the presiding officer. Because of the commitments the mayor is responsible for, the mayor should be allowed to contribute to the legislative process and have the right to actively participate in the discussion and vote on all issues. Government is a political process and the public wants the mayor to be part of the process. If he or she is to truly earn the role as the community's political leader, the mayor must also be accountable.

There was a concern at one public hearing of making change for change sake. One of the options of the Billings Study Commission was to recommend no change. The Billings Study Commission does not offer these amendments as a justification or to have something to show for our work. The saying goes: "If the tire ain't flat - don't fix it." But, it is prudent to check it and add a little air when it's low.

The Billings Study Commission is not imposing these amendments, but is proposing them as valid recommendations for voter approval and will be placed on the primary election ballot on June 4th, for their consideration.

The residents of Billings will still have a good Council-Manager form of government if the Billing Study Commission's proposal is rejected by the voters. The Billings Study Commission does believe our proposals will make our form of government better and solicits the citizens of Billings to support its adoption.

The following proposed amendments are identified below by underlining.

1. **ARTICLE III Section 3.01 (A) Legislative Branch.**

   The Legislative Branch shall consist of the City Council and the Mayor.

2. **ARTICLE III Section 3.01 (B) Legislative Branch**

   All powers of the city shall be vested in the Legislative Branch, except otherwise provided by law or this charter, and the Legislative Branch shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

3. **ARTICLE III Section 3.01 (C) Legislative Branch**

   The Legislative Branch shall conduct an annual performance review of the City Administrator.

4. **ARTICLE III Section 3.02 (B) City Council: Composition and Powers.**

   Section 3.02 (B) has been rewritten and is now incorporated as Section 3.01 (B). Therefore, there will be no Section 3.02(B).

5. **ARTICLE III Section 3.04 (A) Mayor: Election, Powers and Duties.**

   The Mayor shall be a resident and qualified voter of the city of Billings and shall be elected at large for a term of four (4) years and shall be limited to two (2) consecutive terms.

6. **ARTICLE III Section 3.04 (B) Mayor: Election, Powers and Duties.**

   The Mayor shall be the presiding officer of the City Council and shall vote on all issues.

CERTIFICATE

CERTIFYING THE COMPLETION AND SUBMISSION OF THE BILLINGS LOCAL GOVERNMENT REVIEW COMMITTEE'S FINAL REPORT.

THE BILLINGS LOCAL GOVERNMENT REVIEW COMMISSION HAS COMPLETED ITS FINAL REPORT, COPIES OF WHICH WILL BE SUBMITTED ACCORDING TO STATE STATUTES. COPIES OF THE FINAL REPORT WILL BE MADE AVAILABLE FOR THE PUBLIC AT BOTH THE PARMLY BILLINGS LIBRARY AND THE CITY ADMINISTRATOR'S OFFICE IN CITY HALL.

WE, THE STUDY COMMISSIONERS OF THE CITY OF BILLINGS, DO HEREBY CERTIFY THAT THE FINAL REPORT IS COMPLETE AND READY FOR SUBMISSION IN ACCORDANCE WITH STATE STATUTES.

In testimony whereof, we set our hands.

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Ex-Officio Member

ATTEST:

Marita Herold, CMC City Clerk

(SEAL)

BILLINGS
LOCAL GOVERNMENT REVIEW
COMMISSION

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RICHARD E. CLARK
M. LOU SCHUMAN

SUPPLEMENTARY REPORT

OF THE BILLINGS LOCAL GOVERNMENT REVIEW COMMISSION MAY 22, 1996

The Billings Local Government Study Commission is charged by Montana statutes to "study the existing form and powers of a local government and procedures for delivery of local government services and compare them with other forms available under the laws of the state," M.C.A. 7-3-172. In our study, we found several issues that continually emerged as areas of concern. Some of these issues were addressed in our recommended Charter amendments.

Montana statute, M.C.A. 7-3-190 provides that a Study Commission may prepare a Supplementary Report to bring to the City Council issues of concern that the Commission feels needs to be addressed and which are not necessarily issues that are best addressed in a Charter amendment. We have prepared this report to inform the Council and the citizens of this community of the remaining issues that we feel need further action by the City Council

1. Goal setting is a primary responsibility of the City Council. The Charter says that the City Council will set policy and the City Administrator will implement it. Goals should be well defined or there is no measurable way to determine whether staff is following the policies of the Council. We considered addressing this issue in the Charter, and that may be where it should be addressed. However, we bring the important matter of establishing goals to the Council's attention and ask that a definitive ordinance be enacted by the Council defining the goal setting policies for this City. We recommend that one year and long range goals be established and re-evaluated by the Council on an annual basis. These goals should be widely distributed. This should be done annually, preferably prior to budget deliberations and hearings. We believe this procedure may address the many concerns expressed by citizens regarding the delivery of services. It appears that these concerns may come from staff actions on policies set by prior Councils and never directly reviewed or revisited by subsequent Councils.

2. We recommend that the City Council enact an ordinance requiring that all employees of the City of Billings must reside within the City of Billings. This issue continued to surface throughout our deliberations. We asked the City Attorney to research this issue to see if there are any legal barriers to such a requirement. The City Attorney has indicated that such an ordinance could be enacted at a specified date by the City Council, providing that there is an exclusion for current City employees already living outside the City.

We believe this policy should be implemented for the following reasons:

A. Numerous City positions are responsible for the health and safety of our citizens. In an

emergency, these employees need to be readily available. For example, emergency personnel live as far away as Red Lodge or Columbus, and can conceivably be cut off from returning to Billings by a major fire or accident. The obvious critical positions are firemen, policemen, workers in the water and sewer plants, as well as the backup staff that is necessary in any major emergency.

B. Commitment is an important asset of any employee, it is an essential quality in a public employee. When people live in the City that employs them, they demonstrate their commitment to the well being of our City.

C. Regulations that are recommended or implemented by City staff affect every aspect of our lives. A City employee must be fully aware of the impact that any regulations have on its citizens. Community ownership and participation insure sensitivity to all our citizens.

D. City jobs are some of the best paying jobs in this region of Montana. These salaries are supported by the taxpayers and ratepayers of Billings and these jobs should be strongly considered for citizens of Billings. This should not mean that hiring be restricted only to citizens of Billings. However, once hired, an employee should be required to become a resident of Billings as a condition of employment.

3. The primary responsibility of City Council members is to vote. Since this is the council member's primary responsibility, we believe the council members should be paid only for the meetings which they attend. This recommendation reflects the suggestion in the Model Cities Charter for Council-Manager form of government and seems especially appropriate in view of the recent pay raise voted for council members.

We were reminded many times that in order to vote, a council member must be present at the City Council meeting. In order to vote intelligently as an informed member of the Council, the council member needs to attend the agenda meeting which briefs him or her prior to the City Council meeting. If the agenda meeting is missed, the council member is not present to voice the concerns of his or her constituency and his or her vote may not be a completely informed vote.

When the council member is not present at the City Council meeting, his or her constituency is under represented. We did note there is a provision in the City Administrative Code requiring a council member to be excused for an absence. We recommend this policy be continued, but strengthened. If a council member misses more than three consecutive meetings (including agenda meetings), we are concerned that his constituents are without representation for almost a month. We recognize there are many valid reasons why meetings are missed. However, personal business concerns or family matters that interfere with a council member's attendance responsibilities raise the issue that perhaps the council member should allow more time for the position or should consider stepping down, if necessary.

4. We have several recommendations regarding agenda meetings. We hope the Council will seriously consider this issue and develop more ways to make information from the agenda meetings available to the public.

A. We recommend that the proposed agenda of the agenda meetings be made available to all Billings media and utilize the community television channels throughout the weekend prior to the agenda meeting and eventually utilize computerized media.

B. We recommend that the agenda meetings be taped (audio) and that this tape be available

at City Hall for any member of the public to review, the citizen can listen to the tape at City Hall.

C. It should be constantly emphasized that these meetings are not for the purpose of Council discussion, but for the purpose of receiving staff briefings and Council participation in setting the agenda for the upcoming Council meeting. It is also a time for a council member to provide information that might lead to rescheduling the item at another date.

D. The more comprehensive staff briefings should be at the City Council meetings. Conceivably, a council member might ask that the staff briefings include additional information.

The original intent for agenda meetings appears to be for the Council as a whole to come together and set the agenda for the next Council meeting and to receive input and briefings from the City Administrator and staff. Encouraging attendance by the public in accordance with the State Constitution and the open meeting law will create more trust in the process.

5. The consolidation of City and County governments and the concept of interlocal agreements occupied much of our time. We have three recommendations in this area.

A. The Billings City Council should join with the appropriate local governments to review current interlocal agreements and implement or modify those parts of such agreements not being utilized. (Example: The interlocal planning agreement provides for citizen advisory committees.)

B. The Billings City Council should join with other local governments to establish interlocal agreement commissions to look at consolidation of the services and function of (1) law enforcement, and (2) vehicle maintenance, and (3) any other services that might be shared which could be beneficial for the community, and to evaluate the benefits of establishing such agreements.

C. Depending on the results of the Yellowstone County election in November 1996, the Billings City Council should seek to establish a committee in cooperation with the County Commissioners, to develop a proposed consolidation plan for the City and the County with the intent that this issue be placed before the voters at the November 1998 election.

The issue of complete consolidation of City and County government has been discussed and studied for almost twenty years. Yet the citizens of this County have never had the opportunity to vote on consolidated government. Due to the structure of State Law governing the way our two committees must interact, we were unable to begin a comprehensive dialogue. We believe it is important to have a broad based committee, under the direction of both elected governments, devise a plan that can be placed on the ballot for a citizen decision. We believe financial necessity will eventually make consolidated government a reality.

It has been the intent of our committee to make decisions on the basis of consensus. We note here that consensus allows for the concept that on certain issues we "agree to disagree and respect the other person's position and their honest disagreement with our viewpoint." In that spirit, the following members would like to note their exception to individual items in this report:

Item Two, Kathy Walters and Bill O'Connor voted no, believing that no distinction should be made between any county residents.

Item Five B, Richard Clark and Connie Wardell voted no, believing that no more interlocal

agreements should be signed and we should proceed to pursue total consolidation.

The delivery of this report to the Billings City Council is our final task as the Billings Local Government Review Commission. The law provides that the Council review our recommendations and act on them within one year. The law does not require that the Council adopt our recommendations, it simply requires the Council review and act on the recommendations, as we feel these issues need further dialogue. We will not meet again as a Commission. Individually, we would be happy to meet with the Council, answer any questions, or work on some of the committees that we have suggested in our report. Serving on this Commission has been an education and we are pleased to have been chosen by the voters to serve our community on the Billings Local Government Review Commission.

CERTIFICATE

CERTIFYING THE COMPLETION AND SUBMISSION OF THE

BILLINGS LOCAL GOVERNMENT REVIEW COMMITTEE'S SUPPLEMENTAL REPORT

THE BILLINGS LOCAL GOVERNMENT REVIEW COMMISSION HAS COMPLETED ITS SUPPLEMENTAL REPORT, COPIES OF WHICH WILL BE SUBMITTED ACCORDING TO STATE STATUTES. COPIES OF THE SUPPLEMENTAL REPORT WILL BE MADE AVAILABLE FOR THE PUBLIC AT BOTH THE PARMLY BILLINGS LIBRARY AND THE CITY ADMINISTRATOR'S OFFICE IN CITY HALL.

WE, THE STUDY COMMISSIONERS OF THE CITY OF BILLINGS, DO HEREBY CERTIFY THAT THE SUPPLEMENTAL REPORT IS COMPLETE AND READY FOR SUBMISSION IN ACCORDANCE WITH STATE STATUTES.

In testimony whereof, we set our hands.

Gayle A. Rossi 005
Study Commissioner

Study Commissioner

Study Commissioner

Clifford H Hanson
Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Ex-Officio Member

ATTEST:

Marita Herold
Marita Herold, CMC City Clerk

(SEAL)

CITY OF BILLINGS SEAL YELLOWSTONE COUNTY, MONTANA

CERTIFICATE

ESTABLISHING THE DATE OF THE SPECIAL ELECTION AT WHICH THE AMENDMENT TO THE EXISTING CHARTER OF THE CITY OF BILLINGS SHALL BE PRESENTED TO THE ELECTORS OF THE CITY OF BILLINGS

THE AMENDMENT TO THE EXISTING CHARTER OF THE CITY OF BILLINGS PROPOSED BY THE BILLINGS LOCAL GOVERNMENT STUDY COMMISSION SHALL BE SUBMITTED TO THE VOTERS OF THE CITY OF BILLINGS AT A SPECIAL ELECTION TO BE HELD WITH THE PRIMARY ELECTION ON JUNE 4, 1996.

WE, THE STUDY COMMISSIONERS OF THE CITY OF BILLINGS, DO HEREBY CERTIFY THAT THIS IS THE DATE OF THE SPECIAL ELECTION APPROVED BY THE STUDY COMMISSIONERS OF THE CITY OF BILLINGS.

In testimony whereof, we set our hands.

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Ex-Officio Member

ATTEST:

Marita Herold, CMC City Clerk

SEAL

SEAL

COUNTY OF YELLOWSTONE COUNTY, MONTANA

CERTIFICATE

ESTABLISHING THE OFFICIAL BALLOT FOR THE JUNE 4, 1996 SPECIAL ELECTION

INSTRUCTIONS TO VOTERS: PLACE AN **"X"** IN THE BOX THAT EXPRESSES YOUR PREFERENCE.

OFFICIAL BALLOT

BALLOT ON THE AMENDMENT TO THE EXISTING CHARTER OF THE CITY OF BILLINGS

(Vote for One.)

/___/ FOR Amending the City Charter to clarify the duties and powers of the Mayor and the City Council, to include the Mayor voting on all issues, to limit the Mayor's term to two consecutive four year terms and to require an annual performance review of the City Administrator.

/___/ AGAINST Amending the City Charter as proposed.

We, the Study Commissioners of the City of Billings do hereby certify that this is the official ballot approved by the Study Commissioners of the City of Billings.

In testimony whereof, we set our hands.

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Study Commissioner

Ex-Officio Member

ATTEST:

Marita Herold, CMC City Clerk

SEAL

SUMMARY REPORT
of the
LOCAL GOVERNMENT REVIEW COMMISSION

Twenty years ago, the citizens of Billings voted for a new form of government. Two years ago, the voters expressed their desire that it was again time for our city government to go through the review process.

A seven member commission was elected in November of 1994. The members of the Billings Study Commission are Kathy Walters, Connie Wardell, Bill O'Connor, Cliff Hanson, Lou Schuman, Dick Clark and Gayle Roset, D.D.S.

The purpose of the commission, as established by state law, is to study the existing form and powers of local government and compare them with other forms of government and to report to our community our conclusions.

The Billings Study Commission's conclusion and recommendations are based from an accumulation of many factors that were obtained over the past 16 months and approximately 50 meetings. The Study Commission believes the proposed amendments will improve our City Charter. These recommendations will be placed on the primary ballot, June 4, 1996, for voter consideration.

As the mayor is seen as the community political leader, the mayor should be allowed to actively participate in the discussion and vote with the city council on all issues.

The proposed amendments are identified below by underlining and are the recommendations the Study Commission is offering as beneficial changes to the Charter.

1. **ARTICLE III Section 3.01 (A) Legislative Branch.**

   The Legislative Branch shall consist of the City Council and the Mayor.

2. **ARTICLE III Section 3.01 (B) Legislative Branch**

   All powers of the city shall be vested in the Legislative Branch, except otherwise provided by law or this charter, and the Legislative Branch shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

3. **ARTICLE III Section 3.01 (C) Legislative Branch**

   The Legislative Branch shall conduct an annual performance review of the City Administrator.

4. **ARTICLE III Section 3.02 (B) City Council: Composition and Powers.**

   Section 3.02 (B) has been rewritten and is now incorporated as Section 3.01 (B). Therefore, there will be no Section 3.02(B).

5. **ARTICLE III Section 3.04 (A) Mayor: Election, Powers and Duties.**

   The Mayor shall be a resident and qualified voter of the city of Billings and shall be elected at large for a term of four (4) years and shall be limited to two (2) consecutive terms.

6. **ARTICLE III Section 3.04 (B) Mayor: Election, Powers and Duties.**

   The Mayor shall be the presiding officer of the City Council and shall vote on all issues.

The Final Report will be made available for the public at both the Billings Parmly Library and the City Administrator's office in City Hall.

BILLINGS
LOCAL GOVERNMENT REVIEW
COMMISSION

P.O. Box 1178
Billings, MT 59103
FAX: (406) 657-8390

GAYLE ROSET, D.D.S., CHAIRMAN
CONNIE WARDELL, VICE-CHAIRMAN
KATHY WALTERS
BILL O'CONNOR
CLIFF HANSON
RICHARD E. CLARK
M. LOU SCHUMAN

November 29, 1995

Mike Kennedy, Chairman
Yellowstone County Local Government Review Commission
2013 Clark Avenue
Billings, MT 59102

Dear Mr. Kennedy:

The Billings Local Government Review Commission would like to reaffirm our unanimous desire to join together with the Yellowstone County Local Government Review Commission in a cooperative study to recommend municipal-county consolidation (7-3-85 (2)(a)(iv) MCA).

Theodore Roosevelt once said: "Far and away the best prize that life offers is the chance to work hard at work worth doing". As we begin the second year of our work, we look back at a first year that has been enjoyable, educational and sometimes an 'eye opening' experience.

The Yellowstone County Local Government Review Commission, the Laurel Local Government Review Commission and the Billings Local Government Review Commission have been actively fulfilling our obligations to study the existing form and powers of local governments and procedures for delivery of local government services and comparing them with other forms of local government available under the laws of the state of Montana (7-3-172 MCA). Our commissions, through the analysis of surveys, series of Public Hearings and the help of the media, have been attempting to acquire public input and involvement in the review process with the ultimate desire "to stimulate public discussion on the purpose, progress, conclusions and recommendations of the study commissions". One measure of success will be an informed electorate.

Our three study commissions have met formally on a number of occasions to discuss issues of mutual interest and have kept up to date on each others review work. The Billings Local Government Review Commission would like this tripartite relationship to continue.

The Billings Local Government Review Commission has come to the conclusion that the current form of Billings' city government is perceived to and in reality does provide good government to the residents of Billings. Some minor weaknesses have been identified. We also discovered that the citizens of Billings would like the opportunity to consider and have on the ballot a consolidated form of government proposal. Our survey and analysis of public input indicates that the public is very open to consider change.

Over the past year, the opinions of the members of our study commission have evolved into a clear and unified realization that a consolidated government is best for our COMMUNITY. We believe our interacting population or COMMUNITY does not begin or end at the city limits. We believe that consolidation has many attributes over two independent - minimally interacting local governments.

We do not define consolidated government as one existing local government absorbing into another, or a current county form of government, or a city run government. We believe a Billings-Yellowstone consolidated government to be a retention of the employees, infrastructure and facilities of both governments and the creation of a new structural form of government that channels its purpose in a clear direction with definite goals for the benefit of our COMMUNITY. We believe this concept of consolidation to be a process for setting priorities and standards for improving the social and economic health of our community that would hold a single government accountable for results. We would like to join with you in this process of establishing the structural form of a consolidated or unified government.

Additional attributes and reasons for proposing a unified government are:

1. Taxpayers have lost patience with turf battles. "We need to eliminate jurisdictional barriers as much as we can." Our recent survey shows that over 60% of respondents feel there is poor cooperation between Billings City and Yellowstone County governments. ex. Environmental concerns should not be jurisdictional.

2. Eliminate duplicated services and expenses.

3. 'One Stop Shopping.' People don't care who does what, they just want to get done what they need to get done, whether it's getting a permit or having a rabid skunk caught. Less confusion - the customer is served better.

4. Eliminate all Annexation issues. You would only pay for the services you get.

5. Eliminate competition for funding and grant solicitation. Yellowstone County long-term goals #4 (Yellowstone County budget): "The property tax revenue base, together with non-tax revenues, does not have adequate resources to finance County services at their current levels. The County Commissioners plan to develop new and alternate sources of funding for County government." This search for additional sources of funding is occurring simultaneously by the City of Billings.

6. Can deliver more services with the same tax dollar collected. Number of employees: County 470, Billings 662, Laurel 45 and Broadview 0. In addition, "capital replacement costs are seldom recognized in local government accounting and budgeting procedures...However, opportunities to reduce the cost of acquiring new public facilities through, for example, shared occupancy of city-county office buildings, can provide substantial long term savings in construction costs and interest cost and, perhaps, in operating costs."

7. Current government officials say we have saved money by past mergers of services. This would imply that we would save by total consolidation.

8. Consolidated government with self-government powers is more flexible and can react quicker.

9. We realize that words like responsiveness, efficiency and professionalism are buzzwords and do not have much measurable content. However, we believe one government would be more responsive, efficient, and with the right form - more professional than two governments trying to serve a community.

10. The Yellowstone County Government survey conducted last year showed that 62.7% of Billings respondents favored consolidation, while 47.1% of Laurel respondents and 54.3% of respondents living in unincorporated areas of Yellowstone County favored consolidation.

11. As our community grows into and during the next century, unified long term community planning will be required. URBAN SPRAWL is becoming more evident each year. When you are atop the rims, one can see by the evening lights that our community of interests extends for many miles, with the densest of population extending from Park City to Pompeys Pillar, yet two overlapping governments are just 50 feet apart.

12. Unfortunately, the perception exists that city government is for the city residents and county government is for the non-city residents. The fact that city residents are also residents of the county governed by the county government and supporting it with their tax dollars must be made clear.

13. A consolidated government must guarantee that access to governmental institutions and services be maintained, and responsiveness and representation be afforded to rural areas.

14. A more focused direction with definite goals with a larger perspective by our unified community state legislators. ex. 18% of state tourism dollars comes from Yellowstone County - yet we do not benefit.

15. It makes little sense to support and finance two units of local government.

16. We can not identify viable reasons why Billings and Yellowstone County should not be consolidated.

At our Public Hearings, we have heard about problems with government in general, problems with specific departments or boards, unhappy experiences in dealings with local governments. Most of these complaints or weaknesses would be inherent with any form of government. One of the prerequisites of good government is good people.

We hope that the Laurel Local Government Review Commissioners continue to actively participate in our joint meetings. We understand that many Laurel residents have a philosophical desire to remain autonomous. We also hope they understand why a unified Billings-Yellowstone County would have long term benefits for them, especially in areas of mutual interest where service mergers could help the City of Laurel with cost containment, yet maintain their autonomy, as well as the town of Broadview.

It was mentioned by someone at our last joint meeting that it would be hard for some citizens to accept change unless there was a crisis in our local government. John F. Kennedy once said: "the time to repair the roof is when the sun is shining".

Our study commission would like to join with the Yellowstone County study commission to continue to work together during the next year for better government for the rural and urban citizens of Yellowstone County. I hope that the next year continues to be enjoyable for you.

On behalf of the Billings Local Government Review Commission.

Sincerely,

Gayle A. Roset DDS

Gayle A. Roset, D.D.S.
Chairman

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LOCAL GOVERNMENT REVIEW
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CLIFF HANSON
RICHARD E. CLARK
M. LOU SCHUMAN

June 3, 1996

Stan Ullman, Chairman
Yellowstone County Government Review Commission
2719 Cook Ave
Billings, MT 59102

Dear Mr. Ullman:

The Billings Local Government Review Commission's term of office is ending June 4, 1996. Our study commission has elected to write a Supplementary Report, as permitted by M.C.A. 7-3-190. "These reports may recommend consolidation of services and functions and indicate potential areas for interlocal agreements." We have proposed several recommendations dealing with interlocal agreements to the Billings City Council for their consideration and reaction. On behalf of the Billings Study Commission, I ask you to please consider the inclusion in your Supplementary Report the recommendation that the Yellowstone County Commissioners establish interlocal agreement commissions in cooperation with the other local governments within the county to look at the potential benefits that could be realized through consolidation of services and functions for the shared benefit of all residents of Yellowstone County.

Our commission hopes that your work continues to be enjoyable.

Sincerely,

Gayle A. Roset DDS

Gayle A. Roset, D.D.S.
Chairman

Enclosure: Supplementary Report of the Billings Local Government Review Commission.

CITY OF BILLINGS LOCAL GOVERNMENT STUDY COMMISSION SURVEY

Dr. Craig Wilson - Dr. Joe Floyd
Co-Investigators

September 19, 1995

I. INTRODUCTION

The development and administration of this survey for the Billings Local Government Study Commission was carried out by Dr. Craig Wilson and Dr. Joe Floyd through a contract with MSU-Billings. The survey included additional questions developed for the City of Billings. This report deals with the questions asked for the Billings Local Government Study Commission.

A total of 405 surveys were completed between September 15 and 22. The survey was conducted by MSU-Billings' CATI (Computer Assisted Telephone Interviewing) Laboratory using random-digit-dialing technology. Both the household and adult individual in a household to be interviewed were randomly selected. Up to five call-backs were made to reach the selected household/individual. 50.6% of those interviewed were female and 49.4% male. The survey results have a margin of error of +/_ 5%. Statistical tests were employed to determine whether statistically significant relationships (p=.05) existed between key variables. It must be remembered that factors such as question wording and order can affect survey results.

The average respondent was 47.3 years old, had 13.9 years of education and had lived in Billings for 23.9 years. Only 13.8% of those polled had lived in Billings for five years or less.

II. SUMMARY

A good phrase to describe Billings' residents opinions about the structure and functioning of their city government is "about right." The poll respondents were generally satisfied with their life in Billings and, in terms of various government entities, said they valued the services provided by local government most highly. A majority or plurality of those surveyed supported the existing city council-administrator form of government, the existing size of the city council, electing council members from wards, electing the mayor on a city-wide basis, the existing terms and term limits for the mayor and council members and the salaries they receive. When given the options of higher taxes and more services, or lower levies and less services, a plurality of the respondents favored the existing level of taxes and services. In the area of governmental change, a plurality of those queried expressed majority support for single-member council electoral districts and a majority said they would back privatizing some local government services.

But while the survey participants liked most aspects of Billings' city government, a plurality supported city/county government consolidation and majorities backed consolidating the city street/county road departments and the city police/county sheriff's agencies. The responses to these questions indicate that those polled would be willing to consider broader governmental change in these areas. However, it should be

pointed out that the responses to the questions about consolidation were hypothetical. Neither the Billings City, nor the Yellowstone County, Local Government Study Commissions have made any recommendations about government consolidation.

III. GENERAL QUESTIONS

1. Satisfaction With Life in Billings.

A 1-10 scaled question, where "1" represented "very unsatisfied" and "10" "very satisfied", was asked in terms of "how satisfied are you with your life as a resident of Billings?" A majority (82.8%) of those polled indicated that to some extent (6-10) they were satisfied with their life in Billings. The mean response was 7.5.

Satisfaction With Life in Billings

Unsatisfied (1-5)	Satisfied (6-10)	Total	Mean
17.2%	82.8%	100%	7.5

Statistically Significant Relationship:

* The oldest 63+ age group was most (7.9 mean) satisfied with their life in Billings, while the youngest 18-29 cohort was least (7.1) happy with their life in the city.

2. Benefits Provided by Levels of Government

When asked if they felt that the "federal, state, county or city" level of government "provides benefits or services that you think are most valuable to you," a plurality (36%) of those polled responded "city."

Benefits Provided by Levels of Government

Federal	State	County	City	None	All Same	Undecided/NR	Total
8%	9.1%	6%	36%	.7%	11.6%	28.6%	100%

3. Awareness of Billings Local Government Study Commission

A 1-10 scaled question, where "1" represented "none" and "10" "a great deal", was asked about "how aware" the respondents were "of the activities of this study commission." To some extent, a majority (94.9%) of those polled were unaware (replied 1-5) of the activities of the Commission. The mean response was 2.

Awareness of Billings Local Government Study Commission			
Unaware (1-5)	Aware (6-10)	Total	Mean
94.9%	5.1%	100%	2

Statistically Significant Relationship:

* In relative terms, men (2.3) were more aware of the activities of the Study Commission than women (1.8).

IV. OPINIONS ABOUT CITY/COUNTY GOVERNMENT/SERVICE CONSOLIDATION

1. Consolidation of City/County Governments

In response to a question phrased in terms of whether or not those polled felt "the Billings city government and the Yellowstone County government should be consolidated into one governmental agency," a plurality (47.7%) replied "yes."

Consolidation of City/County Government			
Yes	No	Undecided/NR	Total
47.7%	35%	17.3%	100%

Statistically Significant Relationships:

* A majority or plurality of every educational group, except for a plurality of those with a grade school education who opposed the idea, supported consolidation.

* A majority (57.5%) of men backed consolidation, a plurality (39%) of women opposed it. And more women (22.9%) than men (11.5%) were undecided/NR

on this question.

* A majority (85%) of those supporting consolidation felt it would lead to more efficient delivery of services, while a majority (84.5%) of the opponents of consolidation held the opposite view.

2. Consolidated Government Resulting in More Efficient Services

Those polled were next asked if they believed that government consolidation "would result in the more efficient delivery of local government services?" A plurality (44.2%) believed that greater efficiency would be brought about by consolidation.

Consolidation Resulting In More Efficient Services

Yes	No	Undecided/NR	Total
44.2%	36.3%	19.5%	100%

Statistically Significant Relationships:

* A majority (50%) of men and a plurality (38.5%) of women felt that consolidation would lead to greater efficiency, but more women (24.4%) than men (14.5%) were undecided about the issue.

* A plurality (43.6%) of those who felt consolidation would lead to service efficiency felt that it would lead to the "same" level of taxes, while a majority (57.8%) of those feeling that efficiency would not occur, also felt that consolidation would cause taxes to be "higher."

3. Consolidation Leading to Higher/Lower Taxes

When asked if they felt that the consolidation of the city and county governments "would result in you paying higher or lower local taxes and fees," a plurality (36.3%) of those surveyed answered "same."

Consolidation Leading to Higher/Lower Taxes

Higher	Lower	Same	Undecided/NR	Total
30.4%	21.5%	36.3%	11.8%	100%

Statistically Significant Relationships:

* A plurality (41%) of men felt consolidation would lead to the "same" level of taxes, a plurality (32.2%) of women responded "higher" and more women (17.6%) than men (6%) were undecided/NR about the issue.

* A plurality (47.2%) of the supporters of consolidation felt it would result in taxes remaining the "same", while a majority (57.7%) of the opponents felt it would cause "higher" taxes.

4. Consolidation of City Street and County Road Departments

A majority (51.6%) of the respondents said they would support the "consolidation of the Billings Street Department and the Yellowstone County Road and Bridge Department."

Consolidation of City/County Street/Road Departments

Support	Oppose	Undecided/NR	Total
51.6%	29.4%	19%	100%

Statistically Significant Relationships:

* A plurality (43.1%) of those who felt consolidation would lead to higher taxes opposed road/street consolidation, while a majority (69%) who felt lower taxes would result supported this service consolidation.

* A majority (60%) of men and a plurality (43.4%) of women supported this concept, but more women (24.9%) than men (13%) were undecided/NR on the issue.

* A majority (67.4%) of those backing government consolidation also supported road/street department consolidation, while a plurality (47.9%) of those opposing government consolidation were also against street/road merger.

* A majority (70.4%) of the respondents who felt that consolidation would lead to greater service efficiency backed consolidating the street/road department, while a majority (51%) of those feeling greater efficiency of services would not occur

opposed the proposal.

5. Consolidation of Police/Sheriff's Departments

When asked if they would support "the consolidation of the Billings City Police Department and the Yellowstone County Sheriff's Office into one county-wide law enforcement agency" a majority (61.7%) of those surveyed backed the idea.

Consolidation of Police/Sheriff's Departments

Support	Oppose	Undecided/NR	Total
61.7%	24.7%	13.6%	100%

Statistically Significant Relationships:

* Majorities (68%) of men and women (55.6%) backed consolidation, but more women (18%) than men (9%) were undecided about the issue.

* A majority (88.6%) of the respondents who backed government consolidation also supported police/sheriff consolidation, while a majority (52.1%) of government consolidation opponents also opposed law enforcement merger.

* A majority (88.3%) who felt that consolidation would lead to service efficiency supported law enforcement consolidation, while a majority (52.4%) of the respondents who did not think greater efficiency would occur opposed the proposal.

* Majorities of those who felt that law enforcement consolidation would lead to the "same" (69.4%) or "lower" (81.6%) taxes and a plurality (48%) of those feeling consolidation would lead to higher taxes all supported the proposal.

V. OPINIONS ABOUT BILLINGS CITY GOVERNMENT

1. Cooperation Between Billings City and Yellowstone County Governments

When asked a 1-10 scaled question, where "1" represented "poor" and "10" "excellent," about their opinion of "the overall level of cooperation which exists between Billings City and Yellowstone County governments," a majority (60.7%) of those polled expressed a negative opinion. But in terms of intensity, the mean response was a slightly positive 5.1 (a mean above 5 is considered positive in terms of intensity).

Cooperation Between Billings City/Yellowstone County Governments

Negative (1-5)	Positive (6-10)	Total	Mean
60.7%	39.3%	100%	5.1%

2. Opinions About City Council-Administrator Form of Government

After describing the city council-administrator form of government the City of Billings operates under, those surveyed were asked if they tended to "support or oppose this . . . form of government for Billings." A majority (54%) of the respondents backed the existing form of government.

Opinions About City Council-Administrator Form of Government

Support	Oppose	Undecided/NR	Total
54%	26.2%	19.8%	100%

Statistically Significant Relationships:

* A majority or plurality of all age cohorts supported the existing government structure.

* A majority or plurality of all educational groupings with a high school degree or more liked the existing government. But a majority (60%) of those with some high school opposed the current structure, as did one-third (33.3%)

of those with a grade school education.

* Majorities of men (52.5%) and women (55.6%) liked the existing structure, but more women (25.9%) than men (13.5%) were undecided/NR about it.

* A majority or plurality of all income groupings supported the government structure.

3. Opinions About Other Local Forms of Government

Just the respondents who said they opposed the existing form of government were asked if they would support or oppose replacing the city council-administrator form of government: 1) with a city council-mayor form in which a "full-time elected mayor ran the administration of the city,"; 2) with "a commission form similar to the way the Yellowstone County Commissioners govern"; 3) or with "some other form of local government." A majority (54.7%) of these respondents favored the mayor-council form. (Note: The margin of error for this question is +/_ 9%).

Opinions About Other Local Forms of Government

Mayor-Council	Commissioner	Other	Don't Know/NR	Total
54.7%	30.2%	8.5%	6.6%	100%

4. Size of City Council

After being told that there are currently 10 members of the City Council, those surveyed were asked what they thought "the ideal size of the Council" should be. While the responses ranged from 2 to 25, a majority (68.3%) of those polled chose 10. The mean response was 9.9.

Size of City Council

# Less than 10	10	# More than 10	Total	Mean
18%	68.3%	13.7%	100%	9.9

5. Prefer Electing City Council Members by Wards or City-wide Basis

After being told that Billings' ten city council members are elected on the basis of two from each of five wards, those polled were asked if they tended to "favor this

system," or if they would rather have "all city council members elected on a city-wide basis." A majority (65.7%) of those polled liked the existing system of wards.

Prefer Electing City Council Members by Wards or City-wide Basis

Wards	City-wide	Undecided/NR	Total
65.7%	21%	13.3%	100%

Statistically Significant Relationships:

* Majorities of males (73.5%) and females (58%) liked the ward system of electoral districts, but more women (18.5%) than men (8%) were undecided about this question.

* A majority or plurality of all income groupings supported the ward system.

6. Opinions About Single Member District Council Elections

When asked if rather than electing the ten council members from five wards with two members each, the respondents would favor electing each of the ten council members "from a smaller single-member district," a plurality (40.7%) said they would prefer the single-member district system.

Opinions About Single Member District Council Elections

Single Member Districts	Existing Wards	Undecided/NR	Total
40.7%	35.1%	24.2%	100%

7. Method of Electing Mayor

After being informed that Billings' mayor is elected on a city-wide basis, those surveyed were asked if they would "prefer that the mayor be chosen based upon the council member who receives the most votes," or if this official should be "chosen by the City Council from among its members." A majority (78%) of those answering this query backed the existing system.

Method of Electing Mayor				
Current Method	Council Member With Most Votes	Selected By Council	Undecided/NR	Total
78%	2.2%	8.7%	11.1%	100%

Statistically Significant Relationship:

* A majority of all age cohorts backed the existing method of choosing the mayor.

8. When Should Mayor Vote?

Those polled were informed that the mayor now votes only to break tie votes in the city council and then asked if they felt this official "should have a vote on all questions, vote only to break ties, or have not vote at all on the council decisions." A plurality (47.2%) of those questioned supported the existing system of only having the mayor vote to break ties.

When Should Mayor Vote				
Break Ties Only	All Questions	Have No Vote	Undecided/NR	Total
47.2%	33.3%	8.1%	11.4%	100%

Statistically Significant Relationships:

* A majority (52%) of men and a plurality (42.4%) of women felt the mayor should vote to break ties, but more women (15.6%) than men (7%) were undecided about this issue.

* A majority or plurality of all income groups felt the mayor should vote to break ties.

9. Mayor's Veto Power

A majority (58%) of those surveyed did not think that the mayor "should be able to veto any ordinance or local law passed by the council."

Mayor's Veto Power			
Should Have Veto	Should Not Have Veto	Undecided/NR	Total
25.2%	58%	16.8%	100%

Statistically Significant Relationship:

* A majority or plurality of all income groups did not think the mayor should have a veto.

10. Term of City Council Members

Those questioned were told that city council members were elected for four year terms and were then asked if they felt this period in office was "too short, about right, or too long." A majority (62%) of those queried said "about right."

Terms of City Council Members				
Too Short	About Right	Too Long	Undecided/NR	Total
2%	62%	23.4%	12.6%	100%

Statistically Significant Relationships:

* A majority of all age cohorts backed the existing term length.

* Majorities of males (63%) and females (61%) backed the existing terms, but more women (16.6%) than men (8.5%) were undecided about this question.

* A majority of all income groups backed the existing term lengths.

11. Term of Office for Mayor

After being told that the mayor is elected for a two year term, those questioned were asked if they felt this period in office was "too short, about right, or too long." A plurality (44.7%) of the respondents said "about right."

Term of Office for Mayor				
Too Short	About Right	Too Long	Undecided/NR	Total
38.5%	44.7%	4%	12.8%	100%

12. Term Limits for City Council Members

Those polled were told that city council members are restricted to serving two consecutive four year terms and then asked if "these term limits should be continued?" A majority (70.4%) of those queried replied "yes."

Term Limits for City Council Members			
Yes	No	Undecided/NR	Total
70.4%	10.8%	18.8%	100%

Statistically Significant Relationships:

* A majority of all educational groupings supported term limits.

* Majorities of men (75.5%) and women (65.4%) backed term limits, but more women (14.6%) than men (7%) opposed them.

13. Term Limits for Mayor

After being told that the mayor is restricted to serving three consecutive two year terms, a majority (65.7%) of the respondents expressed the opinion that "the term limit for the mayor should be continued."

Term Limit for Mayor			
Yes	No	Undecided/NR	Total
65.7%	17.5%	16.8%	100%

Statistically Significant Relationship:

* A majority of every educational group, except for a plurality (44.4%) of those with a grade school education who opposed it, supported a mayoral term limit.

14. Partisan v. Non-Partisan Elections

Those questioned were told that the mayor and members of the city council are elected on a non-partisan basis and then asked if they tended to "favor these non-partisan elections, or would you favor partisan elections?" A majority (78%) of those surveyed supported the existing non-partisan electoral system.

Partisan v. Non-Partisan Elections

Partisan	Non-Partisan	Undecided/NR	Total
6.2%	78%	15.8%	100%

Statistically Significant Relationships:

* Majorities of men (83%) and women (73.2%) backed non-partisan elections, but more women (20.5%) than men (11%) were undecided about this issue.

* A majority of all income groups liked non-partisan elections.

15. Salary of City Council Members

After being informed that the council members are paid $300 per month "in direct salary for their work," those polled were asked if they felt "this is too little, about the right amount, or too much compensation for the work they perform." A majority (56.3%) of those surveyed said "about right."

Salary of City Council Members

Too Little	About Right	Too Much	Undecided/NR	Total
17%	56.3%	11.1%	15.6%	100%

Statistically Significant Relationship:

* A majority of all age cohorts felt council members' salaries were about right.

16. Salary of Mayor

The respondents were told that the mayor "is paid $400 per month in direct salary" and then asked if they felt this amount was "too little, about the right amount, or too much compensation for the work the mayor performs." A plurality (48.9%) of those queried said "about right."

Salary of Mayor

Too Little	About Right	Too Much	Undecided/NR	Total
23%	48.9%	13.1%	15%	100%

Statistically Significant Relationships:

* A majority or plurality of all age groups felt the mayor's salary was "about right."

* Pluralities of men (49.5%) and women (48.3%) thought the mayor's salary was "about right," but men (27.5%) were more likely than women (18.5%) to view the pay as too low and women (19%) were more likely than men (11%) to be undecided/NR on this issue.

17. Level of Mill Levy and Increased Services

A question first informed those polled that Billings "has a mill levy or local tax limit of 74.5 mills" and then asked if they would "support or oppose an increase in the mill levy if it led to an increased level of local government services." A plurality (47.7%) of the respondents opposed this idea.

Level of Mill Levy and Increased Services

Support Higher Levy More Services	Oppose Higher Levy More Services	Undecided/NR	Total
27.4%	47.7%	24.9%	100%

Statistically Significant Relationship:

* A majority (56.5%) of men and a plurality (39%) of women opposed a higher mill levy limit, but women (31.2%) were more likely than men (23.5%) to back an increase and were also more likely (29.8%) than men (20%) to be undecided/NR on this question.

18. Level of Mill Levy and Decreased Services

The next question asked those questioned if they would "support or oppose" a decrease in the 74.5 mill levy if they knew "it would lead to a decreased level of local government services." A plurality (49.9%) of those polled also opposed this proposal.

Level of Mill Levy and Decreased Services

Support Lower Levy Fewer Services	Oppose Lower Levy Fewer Services	Undecided/NR	Total
24%	49.9%	26.1%	100%

Statistically Significant Relationships:

* A majority of those with a college or post-graduate degree opposed a decrease in the levy and level of services, while pluralities of respondents with some college or a high school degree held the same opinion. In contrast, a majority (60%) of those with some high school and one-third (33.3%) of those questioned with a grade school education liked the proposal.

* A majority (52.7%) of women and a plurality (47%) of men opposed the proposal, more men (31%) than women (17.1%) supported it and women (30.2%) were more apt than men (22%) to be undecided/NR about the question.

* A majority or plurality of all income groups opposed the proposal.

19. Opinions About User Fees

A plurality (36.3%) of the respondents were "undecided" in responding to a question which asked if they would support or oppose "an increase in existing user fees, which are fees charged by the City of Billings to provide

specific services." The results to this question fall within the +/_ 5% margin of error for this survey.

Opinions About User Fees			
Oppose Increase	Support Increase	Undecided/NR	Total
31.4%	32.3%	36.3%	100%

20. Privatizing Local Government Services

A majority (56.8%) of the respondents supported privatizing (turning over to private business), "some of the services and functions now carried out by the City of Billings if privatization would maintain the existing quality of these services."

Privatizing Local Government Services			
Support	Oppose	Undecided/NR	Total
56.8%	20.7%	22.5%	100%

Statistically Significant Relationship:

* Majorities of men (63.5%) and women (50.2%) backed privatization, more females (25.4%) than males (16%) opposed it and women (24.4%) were also more likely than men (20.5%) to be undecided/ NR about the question.

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LETTER TO THE CITIZENS OF THE CITY OF BOULDER

To the Citizens of the City of Boulder:

The City of Boulder Local Government Study Commission elected by the voters on November 2, 2004, or thereafter appointed, present this final report to you, the citizens of the City of Boulder.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." After completing these two phases of the study, it is the responsibility of the study commission to submit a final report recommending no change to the existing form of government or propose an amendment to the existing form of government or offer an alternative form of government to the qualified electors.

In every phase of this review, this study commission sought advice and information from as many people in the City as possible. All meetings of the study commission were advertised and open to the public. Public hearings were held on May 24, 2005, March 7, 2006 and July 11, 2006.

Our recommendations reflect the thoughts and opinions of those who participated in public hearings and those who attended our regular meetings in addition to the independent efforts of this study commission.

In this final report we present our recommendations for an alternative form of government that we think will provide the governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to local problems. We think the citizens of the City of Boulder can achieve these goals by adopting the charter form with self-government powers.

The question of adopting this alternative form of government will be placed on the ballot November 7, 2006.

Respectfully submitted,
Boulder Local Government Study Commission

Kathy Rux

Bettie Schlueter

Sally Buckles

Art Howard

Bill Lambeth

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II REPORT SUMMARY

The City of Boulder Study Commission having studied our present form of government and the alternative forms of government available to communities under state law, and anticipating future government needs of the City, recommends the following:

The City of Boulder should adopt, effective January 1, 2007, the charter form of government with "self-government powers".

A. Findings of the Study Commission

After a thorough study of the present form of government of the City of Boulder, it is the unanimous decision of the study commission to recommend a change in the form of government to a Charter form with self-governing powers.

Currently, the City is divided into two wards with two council members from each ward. One primary part of the charter would be a change from this existing ward system of electing City council members to an at-large election of six council members.

The ward system has sometimes inadvertently restricted the people who are allowed to represent the City of Boulder. There have been times when nobody has run for election in a ward. Alternatively, the other ward may have several candidates.

Another issue concerning the ward structure is that the City's expansion will cause a continuous need of redistricting to keep the population in each ward close to equivalent as required by State law. This redistricting process can be complicated, time consuming, costly and confusing to the citizens. At-large voting would alleviate this requirement and provide for a more efficient government.

Adding two more council members would allow more citizens the opportunity to represent the City of Boulder. It would also allow closer supervision and more involvement by council members in the everyday business of the City.

The City of Boulder's statutory basis for council-mayor government has two items that would be clarified by a charter.

1. MCA Section 7-3-217(1) states that the City's financial officer shall be elected. The clerk for the City of Boulder has always been hired by the mayor with the consent of the council. Many third class cities in the State, including the City of Boulder, defer this to MCA Article 7-4-4102 which states that the City treasurer (clerk) may be appointed by the mayor with the advice and consent of the council. This apparent conflict of State statutes could be clarified by clearly stating, within the proposed charter, that the City clerk will be appointed by the mayor with the consent of the council.

2. MCA Section 7-3-219(1) states that local government elections shall be conducted on a partisan basis. Boulder, like most Montana municipalities, has conducted non-partisan elections since 1987, when the State gave cities and towns the opportunity to change this by resolution. This charter also provides for non-partisan elections.

In an attempt to remedy and/or clarify all of the issues presented above, the Study Commission recommends a change to a charter form of government that would encompass all of these items.

B. Key Provisions of the Proposal

1. Self- government Powers

Under the 1972 Montana Constitution, the potential power and authority of local government has been changed. Traditionally, the power over governmental concerns of the City has been the prerogative of the state legislature, The legislature decided what the City government should do and how it should do it.

The constitution provides that "self-government powers" cab be adopted by cities and towns along with a charter form of government. The adoption of self-government powers would mean greater flexibility in shaping government structure, greater power to solve our own problems and more responsibility to recognize and deal with these problems.

CERTIFICATE A

ESTABLISHING THE EXISTING PLAN OF GOVERNMENT

FOR THE

CITY OF BOULDER, MONTANA

If retained by the voters, the government of Boulder shall remain organized under the following provisions of 7-3-113, M.C.A. which authorizes the municipal council/mayor form of government.

7 -3-113. Statutory basis for municipal council-mayor government.
(1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government, which does not adopt a new form, shall be governed after May 2, 1977 by the following sections:

7-3-201. Commission-executive form.
The commission-executive form (which may be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected commission (which may be referred to as the council) and one elected executive (who may be referred to as the mayor) who is elected at large.

7-3-202. Nature of government.
The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:
(1) general government powers; or
(2) self-government powers.

7-3-203. Duties of executive.
The executive shall:
(1) enforce laws, ordinances, and resolutions;
(2) perform duties required of him by law, ordinance, or resolution;
(3) administer affairs of the local government;
(4) carry out policies established by the commission;
(5) recommend measures to the commission;
(6) report to the commission on the affairs and financial condition of the local government;
(7) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
(8) report to the commission as the commission may require;
(9) attend commission meetings and may take part in discussions;
(10) execute the budget adopted by the commission;
(11) appoint, with the consent of the commission, all members of boards; except the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

7-3-212. Administrative assistants.

The executive:

(1) shall appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive; or

(2) may appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive.

7-3-213. Supervision of personnel.

The executive may:

(1) appoint and remove all employees of the local government;

(2) appoint and remove, with the consent of a majority of the commission, all employees of the local government;

(3) appoint, with the consent of a majority of the commission, all department heads and remove department heads and may appoint and remove all other department employees; or

(4) appoint and remove, with the consent of a majority of the commission, all department heads and appoint and remove all other employees of the local government.

7-3-214. Veto power.

The executive may:

(1) veto ordinances and resolutions, subject to override by a majority plus one of the whole number of the commission;

(2) veto ordinances and resolutions, subject to override by a two-thirds vote of the commission; or

(3) sign all ordinances and resolutions with no veto power.

7-3-215. Preparation of budget.

The executive may:

(1) prepare the budget and present it to the commission for adoption; or

(2) prepare the budget in consultation with the commission and department heads.

7-3-216. Administrative supervision and control.

The executive may:

(1) exercise control and supervision of the administration of all departments and boards; or

(2) exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

7-3-217. Financial officer.

A financial officer (who may be called the treasurer):

(1) shall be elected;

(2) shall be appointed by the executive with the consent of the council;

(3) shall be selected as provided by ordinance; or

(4) may, at the discretion of the commission, be selected as provided by ordinance

7-3-218. Selection of commission members.
The commission shall be:
(1) elected at large;
(2) elected by districts in which candidates must reside and which are apportioned by population;
(3) elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or
(4) elected by any combination of districts, in which candidates must reside and which are apportioned by population, and at large.

7-3-219. Type of election.
Local government elections shall be conducted on a:
(1) partisan basis; or
(2) nonpartisan basis.

7-3-220. Chairman of commission.
The commission shall have a chairman who shall be:
(1) elected by the members of the commission from their own number for a term established by ordinance; or
(2) selected as provided by ordinance.

7-3-221. Presiding officer of commission.
The presiding officer of the commission shall be:
(1) the chairman of the commission, who may vote as other members of the commission;
(2) the executive, who may vote as the commissioners;
(3} the executive, who shall decide all tie votes of the commission but shall have no other vote (the chairman of the commission shall preside if the executive is absent); or
(4) the executive, but he may not vote.

7-3-222. Terms of commission members.
Commission members shall be elected for:
(1) concurrent terms of office; or
{2} overlapping terms of office.

7-3-223. Size of commission and community councils.
The size of the commission, which shall be a number not less than three, shall be established when the form is adopted by the voters, and:
(1) community councils of at least three members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at large shall district according to population for the purpose of electing community councils; or
(2) community councils to advise commissioners may be authorized by ordinance.

(3) This form has terms of 4 years for all elected officials. The size of the commission shall be four members.

7-3-224. Terms of elected officials.
The term of office of elected officials shall be four (4) years.

CERTIFICATE B
CHARTER GOVERNMENT
CITY OF BOULDER

PREAMBLE

WE, THE PEOPLE OF THE CITY OF BOULDER, COUNTY OF JEFFERSON, STATE OF MONTANA, in accordance with Article XI, Section 5 of the Constitution of Montana, and in accordance with Title 7, Chapter 3, Part 7 Montana Code Annotated 1979, in order to modernize our form of local government, increase its efficiency and to provide for local self-determination, do hereby adopt this Charter.

ARTICLE I

POWERS OF THE CITY

Section 1.1 Powers of the City of Boulder

The City of Boulder shall possess self-government power and have all powers not prohibited by the Constitution of Montana, the laws of Montana or this Charter.

Section 1.2 Interpretations of Powers

The powers and authority of the City of Boulder shall be liberally construed. Every reasonable doubt as to the existence of a power or authority shall be resolved in favor of the existence of that power or authority.

Section 1.3 Restrictions

1. Any mill levy shall be limited to that of Montana municipal governments with general government powers, except with the prior approval of a majority of the electors voting in a general or special municipal election.
2. There shall be no new kinds of taxes levied without an affirmative vote of a majority of the electors voting at a special election or at a general election in which the question may be referred to the people. Taxes allowed under any ordinance or resolution existing at the effective date of this charter, are not to be considered new types of taxes.
3. The City Commission shall make no changes in any ordinance or resolution of the City of Boulder regarding license fees, permit fees, or utility charges without a prior public hearing of the matter.
4. State code is in effect until self-government powers supersede the State code.

Section 1.4 Charter Supremacy

As provided by Article XI, Section 5 of the Constitution of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

Section 1.5 Intergovernmental Cooperation

As provided by Article XI, Section 5 of the Constitution of Montana, unless prohibited by law or this Charter, the City of Boulder may:

1. Cooperate in the exercise of any function, power or responsibility
2. Share the services of any officer or facilities
3. Transfer or delegate any function, power, responsibility or duty of any officer of one or more other local government units, school districts, the State of Montana or the United States.

Section 1.6 Oaths of Office

Before beginning the duties of the office, all elected City officials shall take and subscribe to the Oath of Office as prescribed in Article III, Section 3 of the Constitution of Montana (January 5, 1981).

ARTICLE II

LEGISLATIVE BRANCH

Section 2.1 Legislative Branch

The Legislative Branch shall consist of the City Commission that shall be the governing body of the City of Boulder.

Section 2.2 Qualification for Office

Every resident of the City of Boulder who is eighteen (18) years of age or older, a resident of the City of Boulder for two (2) years prior to the election and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of commission member for the City of Boulder. The Commissioners must reside within the city limits of Boulder for the total term of office or the office will be declared vacant.

Section 2.3 Composition

The City of Boulder shall have a City Commission of six (6) members elected at large.

Section 2.4 Terms of Office

Each term of office shall be four (4) years.

Section 2.5 Elections

Local government elections shall be conducted on a non-partisan basis. Three Commission members shall be elected every two (2) years.

Section 2.6 Chair of the Commission

The commission shall elect a Chair and a Vice Chair from their own members for a term of two (2) years. The Vice Chair will preside over meetings if the Chair is unavailable. Each two (2) years, after the new commission has been formed, the commission shall select a new Chair from the commission members. The same person may be reelected but this shall not occur for more than four (4) consecutive terms (8 years). The Chair shall not vote except in the case of a tie vote by the members of the commission with the exceptions listed in this charter.

Section 2.7 The Commission:

1. Shall determine a means of selecting a commission member to each department to oversee the department and be a liaison between the department, the chairman and the commission.
2. The commission member for each department will help the department head in the formulation of a budget for that department and submit the budget to the chairman. Each commissioner shall become familiar with the function of the department they represent.

3. The commissioner of each department will be available to work with the department head regarding any questions or issues that may arise. Disputes that cannot be resolved will then be taken to the chairman, if there is still no satisfactory resolution then the dispute or problem will be taken to the commission as a whole for resolution.

Section 2.8 Vacancy in Office

The office of a Commission Member shall become vacant upon his/her death, resignation or removal from office.

Section 2.9 Removal from Office

A Commission Member shall forfeit his/her office if he/she
Loses his/her eligibility for election to his/her seat;
Violates any expressed prohibition in this Charter;
Is convicted of a felony:
Without prior council approval, fails to attend three (3) consecutive regularly scheduled meetings.

A commission member may be removed from office for cause, adopted by the affirmative vote of four (4) commission members. The chairman is a voting member in this instance.

The electors of Boulder as prescribed by law may also recall a commission member.

Section 2.10 Filling Vacancy by the Commission

When a vacancy occurs in the office of a Commission member, the position shall be considered open and subject to nomination and election at the next general municipal election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Within thirty (30) days of the vacancy, the commission shall appoint, by the affirmative vote of four (4) commission members, a person possessing the qualifications for office required by law and this Charter, to hold the office until a qualified successor is elected. The chairman is a voting member in this instance.

Section 2.11 Powers and Duties

The commission shall be the legislative and policy determining body of the city. All powers of the city shall be vested in the City Commission except as otherwise provided by law or this Charter and the Commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed by law or this Charter.

Section 2.12 Legislative Action

. A minimum of four (4) Commission members must be present when the Commission takes official actions. The affirmative vote of three (3) members of the Commission shall be required for all official actions of the Commission.

Section 2.13 Procedure

The commission shall establish its rules of attendance, procedure, and time and place of meetings by resolution. Meetings shall be conducted using Robert's Rules of Order.

Section 2.14 Compensation:

Any compensation shall be set by resolution of the City Commission.

ARTICLE III

EXECUTIVE BRANCH

Section 3.1 Chair

The Commission Chair shall:

1. Be the presiding officer for the commission, be recognized as the head of the local government unit, be the chief executive officer and
2. Enforce laws, ordinances and resolutions as adopted by the commission.
3. Perform duties required of him/her by law, ordinances or resolution.
4. Vote in accordance with Sections 2.6, 2.9, 2.10 of this Charter.

Section 3.2 The Commission Chair may:

1. Appoint temporary advisory boards to aid in the operation of the local government. All boards or committees will be made up of residents of the city of Boulder and a position will become vacant if residency terminates.
2. With the consent of a majority of the commission members appoint or remove department heads and all other employees.

ARTICLE IV

DEPARTMENTAL STRUCTURE

Section 4.1 Organization of Departments

The organization of city departments shall be prescribed by ordinance.

ARTICLE V

GENERAL PROVISIONS

Section 5.1 Amendment of Charter

This Charter may be amended only as prescribed by law.

Section 5.2 Effective Date

This Charter shall become effective on January 1, 2007.

Section 5.3 Severability

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE VI

TRANSITION PROVISIONS

Section 6.1 General Transition

Transition to this charter form of government shall be as prescribed by law. The Study Commission shall provide for such transition with an advisory plan consistent with law. The provisions of this transition article shall not be published as part of the Charter after January 1, 2009.

Section 6.2 Continuation in Office

No city employee or elected official holding a city office will lose employment or elected position solely because of the adoption of this Charter. Elected officials holding office on the date this charter is adopted may continue in office until the end of the term for which they were elected with the exception of the current Mayor. The current Mayor will be offered one of the two open Commission seats. The vacant commission seats will be handled in accordance with the provisions of this Charter.

Section 6.3 Review of Existing Ordinances

All city ordinances, resolutions and rules of the City of Boulder shall remain in effect until reviewed, revised or repealed by the City Commission. The City Commission shall review and, where necessary, revise or repeal all City ordinances to provide for compliance and consistency with this Charter and state law no later than January 1, 2009.

III. A COMPARISON OF THE EXISTING PLAN AND PROPOSED PLAN OF CITY GOVERNMENT FOR THE CITY OF BOULDER, MONTANA.

A. EXISTING FORM

The existing form of government of the City of Boulder is a typical Mayor-Council form of government with general powers. The City is divided into two wards and two council members are elected from each ward. Elections are non-partisan. City staff, including the financial officer (referred to as the City Clerk), are appointed by the Mayor with the consent of the Council.

B. PROPOSED FORM

The proposed plan of government, if approved, would give the City self-governing powers. Self-governing powers allow a City the power to do that which is not specifically prohibited by the State.

The proposed plan would also change the way the City council members are elected in Boulder. Four council members serve the City, two of whom are presently elected from each of two wards in which they must reside. If the new plan of government is approved, six council members may be elected from anywhere in the City. Council members must reside within the City limits of Boulder for a period of at least two years immediately preceding his/her election to office.

C. RECOMMENDATIONS AND REASONS

Self-governing powers would allow the City powers not specifically prohibited by the state. The study commission believes that it would be in the best interest of this community to have those powers in place. This would give our City leaders the flexibility for future needs and add to the efficiency of our government.

Historically those communities governed by mayor-council forms of government, such as Boulder, have elected their representatives from wards. Communities which have distinctive neighborhoods with particular needs may be better represented on the City council if they have wards. This is particularly true in Cities having substantial minority populations and neighborhoods significantly differentiated by wealth. However, this study commission believes at-large elections will better serve the needs of Boulder and greatly enhance the efficiency of the City government. At large elections allow qualified electors from the City to run for office without regard to where they live in the City. There is less need for electing representatives by wards where the population is relatively homogeneous like that of the City of Boulder. Candidates for City council may be recruited from the whole City. Whenever vacancies occur on the council, the council may appoint replacements without being restricted to candidates from a given ward.

Voters currently may vote only for those candidates from their ward. If the charter is approved, at future elections voters may vote on candidates from the whole community. Voters may enjoy the opportunity to express their opinion on all positions open on the ballot.

City of Boulder Study Commissioners

Kathy Rux

Sally Buckles

Art Howard

Bettie Schlueter

Bill Lanbeth

CERTIFICATE C

ESTABLISHING THE DATE OF THE ELECTION

AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT

SHALL BE PRESENTED TO THE ELECTORS OF THE

CITY OF BOULDER

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of Boulder at a special election to be held with the general election on November 7, 2006.

We, the Study Commissioners of the City of Boulder do hereby certify that this is the date of the special election approved by the Study Commissioners of the City of Boulder.

In testimony whereof, we set our hands.

Done at Boulder, Montana this 25 day July, 2006

SEAL

ATTEST: _____
City Clerk

_____

_____

_____

_____

LOCAL GOVERNMENT REVIEW
STUDY COMMISSIONERS

CERTIFICATE D

ESTABLISHING THE OFFICIAL BALLOT FOR

THE NOVEMBER 7, 2006 GENERAL ELECTION

INSTRUCTION TO VOTER: Place an "X" in the box which expresses your preferences.

OFFICIAL BALLOT
ON THE ALTERNATIVE FORM OF LOCAL GOVERNMENT

Vote for One

☐ For adoption of the self-government charter proposed for the City of Boulder by the Boulder Local Government Review Study Commission.

☐ For the existing form of government.

We, the Study Commissioners of the City of Boulder do hereby certify that this is the date of the special election approved by the Study Commissioners of the City of Boulder.

In testimony whereof, we set our hands.

SEAL

Done at Boulder, Montana this ___day of ____, 2006.

ATTEST: Dona VanHandy
City Clerk

Kathy Rice
Sally Bucklee
Bettie Anders
William Lambeth
LOCAL GOVERNMENT REVIEW
STUDY COMMISSIONERS

Local Government Study Commission
Bozeman, Montana

RECEIVED
DEC 12 2006
ADMINISTRATION
LOCAL GOVERNMENT
SERVICES BUREAU

State of Montana
Department of Administration
State Capitol
Helena, Montana 59620

Dear Sirs:

Enclosed please find two copies of the final report prepared by the Local Government Study Commission and approved by the electorate of the City of Bozeman on November 7. As you can see from the enclosed copy of the election results, the charter was approved and the sub-option under which the Mayor is directly elected was selected.

This filing is being made in compliance with Sections 7-3-153 and 7-3-187, Montana Code Annotated. Per Section 7-3-187, one of these copies of this report is to be filed with the State Library.

If you have any questions, you may contact me at (406) 388-4053 or via e-mail at rls597@msn.com.

Sincerely,

Robin L. Sullivan
Secretary to the
Local Government Study Commission

Enclosures

P.O. Box 1230 Bozeman, Montana 59771 (406) 582-2383

Ballot Issues

Precincts	Gallatin 911 Mill Levy		West Yellowstone Povah Community Center Bond		West Yellowstone Library Refunding Bond		WY Union Pacific Bond		Big Sky Resort Area		Manhattan Library Levy		City of Bozeman Alternate Form of Government		City of Bozeman Mayor Issue	
	YES	NO	YES	NO	YES	NO	YES	NO	FOR	AGAINST	FOR	AGAINST	FOR EXISTING	FOR ADOPTION	SHALL BE DIRECTLY	BE THE CITY
1	300	223	187	145	211	117	210	117								
2	468	244							541	163						
3	520	361														
4	676	404														
5	441	326														
6	453	309														
7	167	178														
8	364	333														
9	492	469														
10	171	198														
11	331	292									235	420				
12	766	462														
13	360	306														
14	215	222														
15	43	56														
16	86	68														
17	324	282														
18	447	331														
19	549	276											16	29	32	14
20	737	369														
21	273	154														
22	591	317														
23	626	325														
24	284	133											162	214	319	104

Ballot Issues

Precincts	Gallatin 911 Mill Levy		West Yellowstone Povah Community Center Bond		West Yellowstone Library Refunding Bond		WY Union Pacific Bond		Big Sky Resort Area		Manhattan Library Levy		City of Bozeman Alternate Form of Government		City of Bozeman Mayor Issue	
	YES	NO	YES	NO	YES	NO	YES	NO	FOR	AGAINST	FOR	AGAINST	FOR EXISTING	FOR ADOPTION	SHALL BE DIRECTLY	BE THE CITY
25	1,045	373											519	814	1,023	426
26	273	238														
27	253	171														
28	707	442														
29	543	441														
30	360	222											63	55	104	21
31	387	235											85	78	156	32
32	497	201											268	364	552	147
33	352	157											199	278	395	133
34	528	219											323	328	592	147
35	350	140											295	170	486	64
36	588	192											264	449	603	202
37	410	170											214	333	453	169
38	476	206											261	354	533	159
39	404	220											311	248	535	88
40	519	243											362	355	666	120
41	556	242											320	426	664	169
42	494	243											335	349	646	141
43	360	174											282	228	442	112
44	563	291											446	357	742	142
45	456	292											334	340	603	155
46	157	102														
Totals	19,962	11,852	187	145	211	117	210	117	541	163	235	420	5,059	5,769	9,546	2,545

CITY OF BOZEMAN
LOCAL GOVERNMENT
STUDY COMMISSION
2004-2006

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LOCAL GOVERNMENT
SERVICES BUREAU

FINAL REPORT

Adopted
August 8, 2006

Submitted
August 21, 2006

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I. LETTER TO THE CITIZENS OF THE CITY OF BOZEMAN

To the Citizens of the City of Bozeman:

The City of Bozeman Local Government Study Commission, elected by the voters on November 2, 2004, or thereafter appointed, presents this report to you, the citizens of Bozeman.

The purpose of the study commission, as defined by Montana law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under laws of the state." After completing these two phases of the study, it is the responsibility of the study commission to submit a report recommending no change, propose an amendment to the existing form of government, or offer an alternative form of government to the qualified electors.

In every review phase, this study commission sought advice and information from as many Bozeman citizens as possible. Our recommendations reflect the thoughts and opinions of the citizens who participated in this study process.

This report presents our recommendations for an alternative form of government that will provide the present and future governmental services expected by the public, be more responsive to local citizens, and provide more opportunity for devising solutions to local problems. We feel the citizens of Bozeman can achieve these goals by adopting this charter, which retains the present commission-manager structure with self-governing powers, with some alterations.

The question of adopting this alternative form of government will be placed on the ballot for the November 7, 2006, election.

We solicit your support for its adoption.

Respectfully submitted,
City of Bozeman Local Government Study Commission

LOREN D. OLSEN, Chair

BRIAN F. CLOSE

HAROLD A. FRYSLIE

WILLIAM G. HAYWARD, JR.

MARILOU TURRENTINE

II. REPORT SUMMARY

The City of Bozeman Study Commission, having thoroughly studied our present form of government and the alternative forms of government available to cities under state law, and having studied the future governmental needs of the City of Bozeman, recommends the following:

The City of Bozeman should adopt, effective July 1, 2007, the charter form of the commission-manager plan of government.

A. Findings of the Study Commission

After a thorough study of the present form of government of the City of Bozeman, it is the decision of the study commission to recommend a change in the form of government to a charter form with the city manager plan of government and with self-governing powers for the following reasons:

Finding #1: The city is currently functioning under Title 7, Chapter 3, Part 3 of the Montana Code Annotated, without a charter. A charter will better delineate the responsibilities and functioning of elected and appointed officials and departments of the city. If the charter is approved, the city will be functioning under Title 7, Chapter 3, Part 7 of the Montana Code Annotated.

Finding #2: The city has been well served by the commission-manager form of government for over eighty-four years, since it provides for the day-to-day operations of the city to be placed in the hands of a professional manager.

Finding #3: Access to government/transparency in government has been identified as a key issue in ensuring trust and satisfaction with the local government. The city strives to ensure that government is open; however, additional mechanisms have been identified that require the cooperation of other entities. Examples include the posting of city and county agendas and notices in a consistent location in the *Bozeman Daily Chronicle* on a specific day and posting to the City's website.

City Commission meetings are now being televised by Bresnan Communications on its Channel 20. Unfortunately, only one-half of the residents within Bozeman city limits are served by that cable television provider and, thus, can watch the live broadcast if they so desire.

Finding #4: Election of the Mayor has been the topic of discussion for many years. In the commission-manager form of government, the Mayor has no administrative role; however, the position is high profile in the community, with that individual serving in a ceremonial capacity, chairing the Commission meetings, and often serving as liaison between the elected body and the City Manager.

At the present time, the Mayor is the Commissioner who received the highest number of votes in the general election two years prior. The citizen survey did not reflect a clear preference for the manner in which the Mayor is selected and, as a result, the Study Commission has identified this as the issue to be the subject of the single sub-option vote. Whether the Mayor continues to be the highest vote getter or is directly elected, he/she will serve as the Deputy Mayor for the first two years of the term and as Mayor for the second two years of the four-year term.

Finding #5: The City operates under the Municipal Budget Act, which provides an outline and minimum requirements to be met in the annual budgeting process. The need for additional structure has been identified and provided under Article V of the charter. Additional requirements include: a multi-year capital improvement program that is updated annually; and the establishment of a minimum general fund reserve balance.

Finding #6: The City currently operates under the state and city codes of ethics. Both of those documents lack adequate mechanisms for enforcement. State law allows for municipalities to establish a board of ethics; to date the City of Bozeman has not done so. Under this charter, a board of ethics is required and its procedures will be determined by the Commission.

B. Key Provisions of the Proposal

The proposed charter has the following key provisions:

1. Commission-manager structure. The current municipal commission-manager structure will be maintained with minimal adjustment. Under the charter, the Commission will have input on the departmental structure.

2. Election of Mayor. The charter includes a sub-option for the voters to decide. The options include retaining the current method, which is the highest vote getter in the general election, or directly electing the Mayor. Under either method, the Mayor will serve as Deputy Mayor for two years and as Mayor for two years.

3. Vote on Increased Representation. The charter provides that at the general election in 2010, the City Commission shall place on the ballot the question of whether two members should be added to the City Commission, bringing its membership to seven. If approved, four Commissioners will be elected in 2011 and will be seated in January 2012. This provision is in anticipation of the city's population reaching 40,000 by 2010 and that seven Commissioners may better represent the increased population.

4. Fiscal Accountability. The charter provides that there should be an annually updated multi-year capital improvement program, and further provides that the City Commission adopt a minimum general fund balance to ensure fiscal stability.

III. COMPARISON OF THE EXISTING AND PROPOSED PLANS OF CITY GOVERNMENT FOR BOZEMAN, MONTANA

A. Existing Form

The City of Bozeman currently operates under the Municipal Commission-Manager form of government with self-government powers under Title 7, Chapter 3, Part 3 of the Montana Code Annotated, without a charter.

B. Proposed Form

The proposed form of government is the charter with the city manager plan and self-government powers under Title 7, Chapter 3, Part 7 of the Montana Code Annotated. The charter has been prepared in a manner that reflects the current form of government with some minor modifications that the Study Commission feels enhance the operation of government and ensure that the City's business is conducted in a professional manner that is open to the public.

C. Comparison of Specific Characteristics of the Existing and Proposed Forms of Government

The chart on the following page compares characteristics of the existing form of city government with the proposed charter form of city government.

COMPARISON OF SPECIFIC CHARACTERISTICS

	Characteristics	Present Form of Government	Proposed Form of Government	Evaluative Comments
1.	Form of Government	Municipal Commission-Manager form with self-government powers; elected commission determines policy; manager hired to administer policy	Charter form with self-government powers; elected commission determines policy; mayor provides leadership and hired manager administers policy	Modernizes form of government as allowed by the 1972 Montana Constitution.
2.	Powers (Section 1.01)	Self-government powers; city government may exercise any power which the state does not deny. Legislative power vested in the commission.	Self-government powers; city government may exercise any power which the state does not deny. Legislative power vested in the commission	No change.
3.	Governing Body: (Section 2.02)			
a.	Size	5 commissioners, including mayor	Either 5 commissioners, including mayor, or 4 commissioners and 1 mayor with voting privileges depending on which sub-option is approved by the voters.	No change at this time. However, election is to be held in 2010 on whether to expand the size of the governing body to seven with the addition of two commissioner positions.
b.	Election	Non-partisan; nominated and elected at large. Mayor is commissioner who received the most votes in the previous election two years prior.	Non-partisan; nominated and elected at large. Mayor nominated and directly elected or may be the top vote getter, depending on sub-option approved by voters.	No change for commissioners. Depending on the sub-option chosen by the voters, the mayor may be directly elected, to serve as mayor the final two years of four-year term, or may be the top vote getter as under the present form of government. Under either sub-option, the upcoming mayor will serve as deputy mayor for the first two years of his/her term as commissioner.
c.	Terms	Four-year overlapping.	Four-year overlapping.	No change.
4.	Presiding Officer: (Section 2.03)	Mayor chairs commission.	Mayor chairs commission.	No change.
a.	Duties	Official head of city.	Official head of city.	No change.
5.	Chief Administrative Officer (Article III)	City manager	City manager	No change.
6.	Service Delivery Structure (Section 4.01)	City manager establishes departments. Services performed by departments under supervision of the city manager.	City commission establishes departments. Services performed by departments under supervision of the city manager.	Provides for commission input on structure of city government.

7.	Citizen Participation/ Appointments to Boards (Section 4.07)	Commission appoints board members, except those where statute mandates appointment by mayor.	Commission appoints board members, except those where statute mandates appointment by mayor.	Requires that terms on all boards be staggered.
8.	Financial Administration (Article V)	Under the Municipal Budget Act, meeting statutory requirements	Specifies that Municipal Budget Act pertains; adds requirements for establishing minimum general fund reserve by ordinance and for annual capital improvement program budget	No change in Municipal Budget Act requirements; adds requirement for minimum general fund reserve balance; formalizes existing capital improvement program budget process and requires annual update
9.	Initiatives, referendums and recalls (Section 6.03)	State law provides that the percentage of signatures required for a petition for initiatives, referendums or recalls be based on the total number of registered voters.	Specifies that the number of signatures required on petitions for initiatives or referendums be adjusted to account for the number of inactive registered voters, as most recently certified by the county election administrator as a part of his/her regular duties by law.	Allows for reducing the number of signatures required on a petition for initiatives or referendums in light of the high percentage of inactive registered voters on the city's voter roll. (The number of inactive voters is roughly 7,000 of the 24,000 registered voters).
10.	Board of Ethics/conflict of interest (Section 7.01)	Current code of ethics identifies conflicts of interest for elected officials, employees and board members. Under state law, the commission may create and appoint an ethics board.	Provides that the commission shall appoint an ethics board per state law; requires education for elected officials, employees and board members on an annual basis.	Statutory provisions for an ethics board adopted. Adds requirement for annual educational sessions for elected officials, employees and board members so they better understand the state and city codes of ethics and conflict of interest issues.
11.	InterNeighborhood Council (Section 4.06)	While the commission recognizes the InterNeighborhood Council, there is nothing that formalizes it. The Council provides a forum under which representatives from various informal neighborhood associations may discuss issues of neighborhood interest.	The charter establishes the InterNeighborhood Council and standards for the creation of neighborhood associations, which will continue to operate in an informal manner. The InterNeighborhood Council will provide a forum under which the representatives of the informal neighborhood associations may discuss issues of neighborhood interest.	Formalizes the InterNeighborhood Council and neighborhood association structure. The charter makes the InterNeighborhood Council a formal recognized organization while the neighborhood associations remain informal but under minimum recognition requirements.

D. Recommendations and Reasons

Introduction

Pursuant to Section 7-3-185 of the Montana Code Annotated, in addition to the right of a Study Commission to present a new form of government to the citizens of Bozeman, the Study Commission also has the authority to make recommendations for changes in local government that do not require enactment by charter.

In that spirit, the Study Commission conducted a review of Bozeman's existing government, met with current and prior elected officials, and solicited public comment in focus groups, by survey, and through public hearings. In addition, in 2005 the City Manager and City Commission sponsored a survey of citizen opinion on the quality of services delivered by the various city departments. In general, we found a high level of satisfaction with government services, with potential areas of improvement, compared to national averages, identified in the 2005 city survey.

Below are the non-charter recommendations that the Study Commission believes should be acted upon by the Bozeman City Commission.

1. Communication

Representative democracy works best when citizens are timely informed of pending government action. Further, democracy is strengthened when citizens have effective means to communicate their concerns to the city.

As part of the Study Commission's information gathering process, the Study Commission met with a panel of randomly selected citizens to discuss this issue of communication. Based on that discussion and additional research, the Study Commission has the following recommendation on how communication may be improved between citizens and their city: establish a city task force on communication and open government modeled on the effort of Portland, Oregon. Details of Portland's effort can be found at: http://www.portlandonline.com/shared/cfm/image.cfm?id=43577

Related documents are available at: http://www.portlandonline.com/oni/index.cfm?c=38802& and include the CC adoption of Public Involvement Principles, Citizen Involvement Goals and Objectives, etc.

Points that the task force might consider include:

- Hire a city Public Information Officer. Citizens need a single source for getting information.

- Have frequent citizen panels on stated issues of concern. The virtue of the citizen panel is that it calls upon average citizens who do not have a particular stake in an issue. All too often discussions of city issues simply become debates between the "pro" forces and "con" forces based on their self-interests. Citizen panels, as originated in Australia, provide a means to bring diverse opinions on issues to the fore.

- Supplement cable broadcasting of city commission meeting with webcasts and establish a webcast database.

- Use same day/page in *Bozeman Daily Chronicle* for City information and advertisements. In addition, we encourage the *Chronicle* to consider establishing a weekly "government" page listing all pending meetings of local government for easy reference by citizens.

- Include monthly bulk mail flyers, possibly in water bills.

- Provide the earliest access to information for Commission meetings as possible, including the posting of packets on web to the extent possible. Citizens should have access to the same information that commissioners are reviewing or relying upon at public hearings.

- Service surveys should be done at least every four years, shared with all departments, the city commission, and citizens, and action plans formulated to improve service where indicated.

- Maintain and update on a regular basis the city's website and make it more user friendly and comprehensive.

2. Predictable Standards & Procedures for how City buys and sells real estate

We received comments from a broad spectrum of citizens that often an acquisition of a property by the city seemed rushed. We note that this is inherent, in part, by the use of resolutions by the city commission instead of ordinances for most real property acquisitions. Under the law, fewer public hearings are required for a decision to be rendered via resolution as opposed to an ordinance.

We considered mandating in the charter that the city adopt an ordinance detailing criteria and procedures for real property acquisitions. In light of the mandate in the charter for updating annually the capital improvement plan, we believe the fiscal aspect of property acquisitions has been taken care of. It is the opinion of this Study Commission that citizens and the city would be well served if the city adopted an ordinance outlining the procedures and criteria for the city to acquire property as well as raising the standards for public participation in said process.

3. Regular and frequent work sessions between City and County governments

It is in the county's and the city's interest to schedule joint work sessions on a regular basis.

4. Capital Projects supervision

Bozeman has significant capital projects in the works. The capacity of the city to monitor contracts for capital improvements needs to be enhanced.

IV. APPENDIX

CERTIFICATES REQUIRED TO SUPPORT THE FINAL REPORT

Exhibit A: Certificate of the Existing Form of Government

Exhibit B: Certificate of the Proposed Form of Government (Charter)

Exhibit C: Certificate Establishing the Date of the Special Election

Exhibit D: Certificate Establishing the Official Ballot

Exhibit E: Certificate Establishing the Effective Date of the Charter

Exhibit F: Charter Commentary

CERTIFICATE
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT
FOR
BOZEMAN, MONTANA

If retained by the voters, the government of Bozeman, Montana shall be organized under the following provisions of Section 7-3-114 MCA.

7-3-114. Statutory basis for municipal commission-manager government. (1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the municipal commission-manager form of government shall be governed by the following sections:

(a) 7-3-301;
(b) 7-3-302(2);
(c) 7-3-303;
(d) 7-3-304;
(e) 7-3-305;
(f) 7-3-312(3);
(g) 7-3-313(1)
(h) 7-3-314(2);
(I) 7-3-315(3);
(j) 7-3-316(2);
(k) 7-3-317(2);
(l) 7-3-318.

(2) This form has terms of 4 years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed five members.

These sections establish the following form of government which shall be called a MUNICIPAL COMMISSION-MANAGER FORM.

7-3-301. Commission-manager form. The commission-manager form (which may be called the council-manager form) consists of an elected commission (which may be called the council) and a manager appointed by the commission, who shall be the chief administrative officer of the local government. The manager shall be responsible to the commission for the administration of all local government affairs placed in his charge by law, ordinance, or resolution.

7-3-302 (2). Nature of government. The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing self-government powers.

7-3-303. Appointment of manager. The manager shall be appointed by the commission for an indefinite term on the basis of merit only and removed only by a majority vote of the whole number of the commission.

7-3-304. Duties of manager. The manager shall:

(1) enforce laws, ordinances, and resolutions;
(2) perform the duties required of him by law, ordinance, or resolution;
(3) administer the affairs of the local government;
(4) direct, supervise, and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance;
(5) carry out policies established by the commission;

(6) prepare the commission agenda;
(7) recommend measures to the commission;
(8) report to the commission on the affairs and financial condition of the local government;
(9) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
(10) report to the commission as the commission may require;
(11) attend commission meetings and may take part in the discussion, but he may not vote;
(12) prepare and present the budget, to the commission for its approval and execute the budget adopted by the commission;
(13) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance;
(14) appoint members of temporary advisory committees established by the manager.

7-3-305. Employees of commission-manager government.
(1) Employees appointed by the manager and his subordinates shall be administratively responsible to the manager.
(2) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of his subordinates are empowered to appoint.
(3) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

7-3-312 (3). Appointment to boards. All members of boards, other than temporary advisory committees established by the manager, shall be appointed by the commission.

7-3-313 (1). Selection of commission members. The commission shall be elected at large.

7-3-314 (2). Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-315 (3). Chairman of commission. The chairman of the commission shall be selected as provided by ordinance.

7-3-316 (2). Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-317 (2). Size of commission and community councils. The size of the commission shall be five (5), and community councils to advise commissioners may be authorized by ordinance.

7-3-318. Terms of elected officials. The term of office of elected officials shall be four (4) years.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the existing plan of government as established by Section 7-3-114, M.C.A., as amended by the voters of Bozeman in 2000.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 8th day of August 2006.

Respectfully submitted,
City of Bozeman Local Government Study Commission

LOREN D. OLSEN, Chair

BRIAN F. CLOSE

HAROLD A. FRYSLIE

WILLIAM G. HAYWARD, JR.

MARILOU TURRENTINE

ATTEST:

City Clerk

CERTIFICATE
ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT
FOR THE CITY OF BOZEMAN
CHARTER

PREAMBLE

We, the people of the City of Bozeman, under the constitution and laws of the State of Montana, in order to secure the benefits of local self-government and to provide for an honest and accountable commission-manager government, do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and self-governance and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

ARTICLE I
POWERS OF THE CITY

Section 1.01. Powers of the City.

The City of Bozeman shall have all powers possible for a city with self-governing powers to have under the constitution and laws of the State of Montana as fully and completely as though they were specifically enumerated in this charter.

Section 1.02. Construction.

(a) Powers. The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

(b) Priority Construction. As provided by Article XI, Section 5, of the Constitution of Montana, provisions herein establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

Section 1.03. Intergovernmental Relations.

The City of Bozeman may participate by contract or otherwise with any governmental entity of the State of Montana or any other state or states or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

ARTICLE II
CITY COMMISSION

Section 2.01. General Powers and Duties.

All powers of the city shall be vested in the city commission, except as otherwise provided by law or this charter, and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2.02. Eligibility, Terms, and Composition.

(a) Eligibility. Only registered voters whose principal residence is in the City of Bozeman shall be eligible to hold the office of commission member or mayor.

(b) Terms. The term of office of elected officials shall be four years elected in accordance with Article VI.

(c) Composition. The commission shall be composed of four members elected by the voters of the city at large in accordance with provisions of Article VI and the mayor. The mayor shall be elected as provided in §2.03(b).

Section 2.03. Mayor

(a) Powers and Duties. The mayor shall be a voting member of the city commission and shall attend and preside at meetings of the commission; represent the city in intergovernmental relationships; present an annual state of the city message; add an item to the commission agenda prepared by the city manager; assign, subject to the consent of commission, agenda items to sub-committees of the commission; and perform other duties specified by the commission. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties and shall not interfere with the administration of the city as provided in §2.05(c), below. The mayor shall not have any appointment power to city boards except where required by state law.

For convenience of the voters, the sub-optional choices for selection of the Mayor are included below. The method of selection approved by the voters at the time of the adoption of the charter shall remain in the charter. All other language shall be deleted following the election.

(b) Mayor Elected At Large – Top vote getter. At every regular city election the mayor shall be the city commission candidate who receives the most votes at the city election. The person so elected shall serve as deputy mayor and a commissioner for the first two years of his or her term, and mayor for the balance of his or her term of office.

OR

(b) Mayor Elected At Large. At every regular city election the voters of the city shall elect a mayor at large for a term of four years. The person so elected shall serve as deputy mayor and a commissioner for the first two years of his or her term, and mayor for the balance of his or her term of office.

Section 2.04. Compensation; Expenses.

The city commission may determine the annual salary of the mayor and commission members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of commission members elected at the next regular election. The mayor and commission members shall receive their actual ordinary and necessary expenses incurred in the performance of their duties of office.

Section 2.05. Prohibitions.

(a) Holding Other Office. Except where authorized by law, no commission member shall hold any other elected public office during the term for which the member was elected to the commission. No commission member shall hold any other city office or employment during the term for which the member was elected to the commission. No former commission member shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the commission, unless granted a waiver by the board of ethics. Nothing in this section shall be construed to prohibit the commission from selecting any current or former commission member to represent the city on the governing board of any regional or other intergovernmental agency, or any city board.

(b) Appointments and Removals. Neither the city commission nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the commission may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

(c) Interference with Administration. Except for the purpose of inquiries, and investigations under §2.09, the commission or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the commission nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) Vacancies. The office of a commission member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law. If the mayor is absent, incapacitated, dies, resigns from office, or is removed from office, the deputy mayor shall succeed as mayor during said time or absence or incapacity or for the balance of the mayor's term, as appropriate; and the commission vacancy created therein shall be filled pursuant to this section.

(b) Forfeiture of Office. A commission member shall forfeit that office if the commission member:

(1) Fails to meet the residency requirements,
(2) Violates any express prohibition of this charter,
(3) Is convicted of a felony, or
(4) Fails to attend three consecutive regular meetings of the Commission without being excused by a majority of the Commission.

(c) Filling of Vacancies. A vacancy in the city commission shall be filled for the remainder of the unexpired term, pursuant to state law.

Section 2.07. Judge of Qualifications.

The city commission shall be the judge of the grounds for forfeiture of a member's office, pursuant to §2.06.b. In order to exercise these powers, the commission shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city pursuant to state law.

Section 2.08. City Clerk.

The city commission or the city manager, as designated by ordinance, shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of commission meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this charter, by the commission or by state law.

Section 2.09. Investigations.

The city commission may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the commission shall be a misdemeanor punishable pursuant to state law.

Section 2.10. Procedure.

The city commission shall, by ordinance, establish its rules of procedure and time and place of meetings, in accordance with state law.

Section 2.11. Action Requiring an Ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city commission shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;
(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
(3) Levy a new tax;
(4) Grant, renew, or extend a franchise;
(5) Convey or lease or authorize the conveyance or lease of any lands of the city;
(6) Adopt or amend zoning and subdivision regulations;
(7) Amend or repeal any ordinance previously adopted; or
(8) Adopt, with or without amendment, ordinances proposed under the initiative power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

Section 2.12. Ordinances in General.

Ordinances, regular, emergency, and technical regulations, will be proposed, published, and approved in accordance with state law. In addition to the requirements of state law, ordinances, administrative regulations, resolutions, and the Bozeman Municipal Code will be published electronically.

ARTICLE III
CITY MANAGER

Section 3.01. Appointment; Qualifications; Compensation.

The city commission, by a majority vote of its total membership, shall appoint a city manager for an indefinite term and fix the manager's compensation. The city manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. The manager need not be a resident of the city or state at the time of appointment, but may reside outside the city while in office only with the approval of the commission.

Section 3.02. Removal.

If the city manager declines to resign at the request of the city commission, the city commission may suspend the manager by a resolution approved by the majority of the total membership of the city commission. Such resolution shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen days in which to reply thereto in writing and, upon request, shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the city commission, by a majority vote of its total membership, may adopt a final resolution of removal. The city manager shall continue to receive full salary until the effective date of a final resolution of removal.

Section 3.03. Acting City Manager.

By administrative order filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability. The city commission may revoke such designation at any time and appoint another officer of the city to serve until the city manager returns.

Section 3.04. Powers and Duties of the City Manager.

The city manager shall be the chief executive officer of the city, responsible to the commission for the management of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

(1) Appoint and suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
(2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;

(3) Attend all city commission meetings unless excused. The city manager shall have the right to take part in discussion but shall not vote;
(4) See that all laws, provisions of this charter, and acts of the city commission subject to enforcement by the city manager or by officers subject to the manager's direction and supervision are faithfully executed;
(5) Prepare and submit the annual budget and multi-year capital program to the city commission for its approval, and execute the final budget approved by the commission to achieve the goals of the city;
(6) Submit to the city commission and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
(7) Make such other reports as the city commission may require concerning operations;
(8) Keep the city commission fully advised as to the financial condition and future needs of the city;
(9) Make recommendations to the city commission concerning the affairs of the city and facilitate the work of the city commission in developing policy;
(10) Provide staff support services for the mayor and commission members subject to the provisions regarding the city clerk under §2.08;
(11) Assist the commission in developing long term goals for the city and strategies to implement these goals;
(12) Encourage and provide staff support for regional and intergovernmental cooperation;
(13) Promote partnerships among commission, staff, and citizens in developing public policy and building a sense of community;
(14) Perform such other duties as are specified in this charter or may be required by the city commission;
(15) Prepare the commission agenda; and
(16) Appoint members of temporary advisory committees established by the city manager or the city commission.

ARTICLE IV
DEPARTMENTS, OFFICES AND AGENCIES

Section 4.01. General Provisions.

(a) Creation of Departments. The city commission may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) Direction by city manager. All departments, offices, and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the city manager. With the consent of commission, the city manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

Section 4.02. Personnel System.

Consistent with all applicable federal and state laws, all appointments and promotions of city officers and employees shall be made solely on the basis of merit and qualifications demonstrated by a valid and reliable examination or other evidence of competence.

Section 4.03. Legal Officer.

(a) Appointment. There shall be a legal officer of the city appointed by the city manager subject to confirmation by the city commission.

(b) Role. The legal officer shall serve as chief legal adviser to the commission, the manager and all city departments, offices and agencies, shall represent the city in all legal proceedings, and shall perform any other duties prescribed by state law, by this charter, or by ordinance.

Section 4.04. Land Use, Development, and Environmental Planning.

Consistent with all applicable federal and state laws with respect to land use, development, and environmental planning, the city commission shall:

(1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
(2) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan;
(3) Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan(s); and
(4) Adopt development regulations, to be specified by ordinance, to implement the plan.

The designated agency, the city manager, and the mayor and commission shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

Section 4.05. Municipal Court

There shall be a municipal court as prescribed by state law.

Section 4.06 Neighborhood Associations

(a) Purpose. The citizens of Bozeman value the contribution neighborhoods can make to the governance of the city. Therefore, it is the purpose of this article to strengthen neighborhood participation where it exists, and to encourage and support neighborhood participation where it does not yet exist.

(b) Recognition of neighborhood associations. The city commission shall establish by ordinance minimum recognition requirements for neighborhood associations. These standards shall include, but not be limited to:

(1) clear geographic boundaries;
(2) procedures for defining a resident for neighborhood association membership;
(3) adherence to established by-laws that ensure democratic deliberative and voting procedures;

(4) periodic meetings, including an annual meeting;
(5) copy of the by-laws and all amendments filed with the city;
(6) inclusion of all residents in the neighborhood association; and
(7) demonstrating that it has a means of communicating with all residents in a neighborhood association.

(c) Minimum Standards. A neighborhood association must meet and continue to maintain conformity with the minimum standards as established by ordinance in order to be recognized by the city and to be eligible to elect members to the InterNeighborhood Council. Neighborhood associations existing on the date of the enactment of this charter shall have one year after the enactment of said city ordinance to come into compliance.

(d) InterNeighborhood Council. There is hereby established an InterNeighborhood Council to be composed of representatives selected by each recognized neighborhood association.

(1) The InterNeighborhood Council shall provide a forum for Neighborhood Associations to come together, share information, and make recommendations to the city commission, city staff, and the mayor on city-wide issues. This does not preclude a neighborhood association from taking its concerns directly to the city or the commission.
(2) The InterNeighborhood Council shall meet on a regular basis to address city-wide concerns and foster dialogue between neighborhoods.
(3) The InterNeighborhood Council shall adopt by-laws governing the conduct of their business. Such by-laws shall be approved by the city commission, or as designated by ordinance. A vacancy on the InterNeighborhood Council shall be filled only by the affected neighborhood association. The city may appoint a city commissioner as a non-voting member of the InterNeighborhood Council.

(e) City Liaison. The City shall designate a staff member to serve as liaison to the InterNeighborhood Council and neighborhood associations.

Section 4.07. City Boards, Commissions and Committees.

Except for boards and commissions established by statute, the commission may create boards, commissions, or committees as determined necessary. All city boards, commissions, or committees will be established by the city commission and members appointed by the commission and the mayor, when so required by law, following a public solicitation through the newspaper advertised not less than twice annually. Between public solicitations for members, appointments may be made to fill unexpected vacancies or vacancies not filled through the last round of advertisements from those applications on file as of the date of appointment. Subcommittees of existing boards, commissions, or committees may be appointed by the city commission without the necessity of public solicitation. The commission may authorize the city manager to establish ad hoc special commissions for specific purposes without public advertisement. Except where prohibited by law, the terms on all boards shall be staggered.

ARTICLE V
FINANCIAL MANAGEMENT

Section 5.01. Fiscal Year.

The fiscal year of the city shall begin on the first day of July and end on the last day of June, or as otherwise provided by state law.

Section 5.02. Submission of Budgets and Budget Message.

The city manager shall submit to the city commission a preliminary budget for the ensuing fiscal year and an accompanying message and a final budget, both in a timely manner. The publication requirements must conform to the provisions of state law for a municipality and be available electronically.

Section 5.03. Budget Message.

The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the city for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes; summarize the city's debt position, including factors affecting the ability to raise resources through debt issues; and include such other material as the city manager deems desirable.

Section 5.04. Budget.

(a) Statutory Provisions. The preliminary annual operating budget, the final budget, and amended budgets must be prepared in accordance with state laws governing municipal budgets as then in effect.

(b) Unreserved Fund Balance. A minimum level of budgeted general fund unreserved fund balance shall be established by ordinance and shall be in accordance with the GFOA (Government Finance Officers Association) recommended practice on appropriate levels of unreserved fund balance in the general fund. This provision does not limit appropriations in case of emergency pursuant to state law.

Section 5.05. Adjusting Appropriations.

(a) Reduction of Appropriations. In addition to the requirements of state law, if at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city commission without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager, and recommendations as to any other steps to be taken. The commission shall then take such further action as it deems necessary to prevent or reduce any deficit and, for that purpose, it may by ordinance reduce or eliminate one or more appropriations.

(b) Transfer of Appropriations. In addition to the requirements of state law, at any time during or before the fiscal year, the city commission may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service,

or organizational unit to the appropriation for other departments or organizational units or a new appropriation as provided by state law. The city manager may transfer funds among programs within a department, fund, service, or organizational unit and shall report such transfers to the commission in writing in a timely manner.

(c) Limitation; Effective Date. In addition to the requirements of state law, no appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.06. Administration and Fiduciary Oversight of the Budget.

The city commission shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

Section 5.07. Capital Program.

(a) Submission to City Commission. The city manager shall prepare and submit to the city commission a multi-year capital program no later than December 15 for the ensuing fiscal year.

(b) Contents. The capital program shall include:

(1) A clear general summary of its contents;
(2) Identification of the long-term goals of the community;
(3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
(4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
(5) Method of financing upon which each capital expenditure is to be reliant;
(6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
(7) A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
(8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 5.08. City Commission Action on Capital Program.

(a) Notice and Hearing. The city commission shall publish the general summary of the capital program and a notice stating:

(1) The times and places where copies of the capital program are available for inspection by the public, and

(2) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

(b) Adoption. The city commission by resolution shall adopt the capital program for the ensuing fiscal year, with or without amendment after the public hearing, but no later than the last day of March of the current fiscal year.

Section 5.09 Independent Audit.

The city commission shall provide for an independent annual audit of all city accounts in accordance with state law and may provide for more frequent audits as it deems necessary. No accountant or firm may provide any other services to the city during the time it is retained to provide independent audits to the city, however, the city commission may waive this requirement by a majority vote at a public meeting.

ARTICLE VI
ELECTIONS

Section 6.01. City Elections.

(a) Regular Elections. Regular city elections shall be held and administered in odd numbered years, pursuant to state law. Candidates shall run for office without party designation.

(b) Beginning of term. The terms of new commission members shall start at the beginning of the first regularly scheduled meeting in January after their election.

Section 6.02. Methods of Electing Commission Members.

At the first election under this charter, commission members shall be elected at large for four-year terms. The mayor shall be elected pursuant to §2.03(b).

Section 6.03. Initiative; Citizen Referendum, and Recall.

The powers of initiative, citizen referendum, and recall are hereby reserved to the electors of the city as provided by state law. In verifying petitions for initiatives and referendums, the percentage of signatures required under state law shall be reduced in proportion to the number of inactive registered voters as most recently certified by the county election administrator pursuant to state law.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01. Conflicts of Interest; Board of Ethics.

(a) Conflicts of Interest. The use of public office for private gain is prohibited. The city commission shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public, the acceptance of gifts and other things of value, acting in a private capacity on matters

dealt with as a public official, the use of confidential information, and appearances by city officials before other city agencies on behalf of private interests. This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.

(b) Board of Ethics. The city commission shall, by ordinance, establish an independent board of ethics pursuant to state law. The city commission shall appropriate sufficient funds to the city manager to provide annual training and education of city officials, city boards, and employees regarding the state and city ethics codes. City officials, board members, and employees shall take an oath to uphold the state and city ethics codes.

Section 7.02. Campaign Finance.

In order to combat the potential for, and appearance of, corruption and to preserve the ability of all qualified citizens to run for public office, the city shall, insofar as is permitted by state and federal law, have the authority to enact ordinances designed to limit contributions and expenditures by candidates for locally elected office. Ordinances pursuant to this section may include, but are not limited to: limitations on candidate and candidate committees that affect the amount, time, place, and source of financial and in-kind contributions; and voluntary limitations on candidate and candidate committee expenditures tied to financial or non-financial incentives.

ARTICLE VIII
CHARTER AMENDMENT

Section 8.01 Proposal of Amendment.

Amendments to this charter may be framed and proposed:

(1) In the manner provided by state law, or
(2) By ordinance of the commission containing the full text of the proposed amendment, or
(3) By report of a study commission created pursuant to state law, or
(4) By the voters of the city. Proposal of an amendment by the voters of the city shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article VI for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by registered voters of the city equal to that required by state law. In verifying petitions, the percentage of required signatures shall be reduced pursuant to Section 6.03, above.

Section 8.02. Election.

Upon delivery to the election authorities of the report of a charter commission or delivery by the city clerk of an adopted ordinance or a petition finally determined sufficient, proposing an amendment pursuant to §8.01, or as otherwise provided by state law, the election authorities shall submit the proposed amendment to the voters of the city at an election, pursuant to state law.

Section 8.03. Adoption of Amendment.

If a majority of those voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after its adoption by the voters.

ARTICLE IX
TRANSITION AND SEVERABILITY

Section 9.01. Officers, Employees and Elected Officials.

(a) Rights and Privileges Preserved. Nothing in this charter except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

(b) Continuance of Office or Employment. Except as specifically provided by this charter if, at the time this charter takes full effect, a city administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he or she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position. Elected officials serving at the time this charter is approved by the voters shall continue in office for the balance of their term.

(c) Personnel System. An employee holding a city position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in §4.02.

Section 9.02. Pending Matters.

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on, or dealt with by the city department, office, or agency appropriate under this charter.

Section 9.03. State and Municipal Laws.

All city ordinances, resolutions, orders, and regulations in force when this charter becomes fully effective shall be updated to conform with this charter pursuant to state law. Any ordinance or resolution required to be established pursuant to this charter shall be completed as required by state law.

Section 9.04. Schedule.

(a) Mayor Election. Section 2.03(b) shall take effect with the 2007 city election, with said mayor being seated after serving as deputy mayor at the beginning of the first commission meeting in January, 2010.

(b) Referendum on Increasing the Commission. At the general election in 2010, the city commission shall place before the voters, with conforming charter amendments, the issue of adding two members to the city commission. Should the voters approve said

increase, said commission members shall be elected during the regular city election in 2011 and seated at the first regular commission meeting in January 2012.

(c) Time of Taking Full Effect. The charter shall be in full effect for all purposes pursuant to the schedule established by state law.

Section 9.05. Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the proposed plan of government approved by the City of Bozeman Local Government Study Commission.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 8th day of August 2006.

Respectfully submitted,
City of Bozeman Local Government Study Commission

LOREN D. OLSEN, Chair

BRIAN F. CLOSE

HAROLD A. FRYSLIE

WILLIAM G. HAYWARD, JR.

MARILOU TURRENTINE

ATTEST:

City Clerk

EXHIBIT "C"

CERTIFICATE
ESTABLISHING THE DATE OF THE SPECIAL ELECTION
AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT SHALL BE PRESENTED TO THE ELECTORS OF BOZEMAN

The alternative form of government proposed by the City of Bozeman Local Government Study Commission shall be submitted to the voters of Bozeman at a special election to be held in conjunction with the general election on November 7, 2006.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the date of the special election approved by the City of Bozeman Local Government Study Commission.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 8th day of August 2006.

Respectfully submitted,
City of Bozeman Local Government Study Commission

LOREN D. OLSEN, Chair

BRIAN F. CLOSE

HAROLD A. FRYSLIE

WILLIAM G. HAYWARD, JR.

MARILOU TURRENTINE

ATTEST:

City Clerk

EXHIBIT "D"

CERTIFICATE
ESTABLISHING THE OFFICIAL BALLOT FOR THE NOVEMBER 7, 2006
SPECIAL ELECTION

Instruction to voter: Place an ___X___ in the box which expresses your preference.

OFFICIAL BALLOT

BALLOT ON THE ALTERNATIVE FORM OF LOCAL GOVERNMENT

Vote for One.

☐ For adoption of the self-government Charter with the city manager plan of government proposed for the City of Bozeman by its Local Government Study Commission.

☐ For the existing form of government.

CHARTER SUB-OPTION ONE

Vote for One.

Beginning in the year 2007, the Mayor of the City of Bozeman

☐ Shall be the city commission candidate who receives the highest number of votes in the city general election.

☐ Shall be directly elected by the voters.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the date of the special election approved by the City of Bozeman Local Government Study Commission.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this __8th__ day of _August_, 2006.

Respectfully submitted,
City of Bozeman Local Government Study Commission

LOREN D. OLSEN, Chair

BRIAN F. CLOSE

HAROLD A. FRYSLIE

WILLIAM G. HAYWARD, JR.

MARILOU TURRENTINE

ATTEST:

City Clerk

EXHIBIT "E"

CERTIFICATE
ESTABLISHING THE EFFECTIVE DATE OF THE CHARTER
IF ADOPTED BY THE VOTERS OF THE CITY OF BOZEMAN

If the Charter proposed by the City of Bozeman Local Government Study Commission is approved by the voters at the November 7, 2006 special election, the Charter shall become effective on July 1, 2007.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the date of the special election approved by the City of Bozeman Local Government Study Commission.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 8th day of August 2006.

Respectfully submitted,
City of Bozeman Local Government Study Commission

LOREN D. OLSEN, Chair

BRIAN F. CLOSE

HAROLD A. FRYSLIE

WILLIAM G. HAYWARD, JR.

MARILOU TURRENTINE

ATTEST:

City Clerk

CHARTER COMMENTARY

Introduction

The draft charter prepared by the Bozeman City Study Commission is based on the **Model City Charter, 8th Edition**, of the National Civic League (2003). As stated therein:

> The eighth edition of the *Model City Charter* strongly endorses the council-manager structure of municipal government that was first proposed in 1915 as the National Civic League's (then the National Municipal League's) model form. In the years since, the *Model* has been refined to reflect the evolution of the council-manager plan, the most widely used governmental structure in American cities with a population over 10,000. The fundamental principle of the model, that all powers of the city be vested in a popularly elected council that appoints a professional manager who is continuously responsible to and removable by the council, has endured ever since.
>
> **A Model for the 21st Century**
>
> The realization that the *Model City Charter* has exerted enormous influence in promoting the municipal reform agenda for more than a century made those responsible for the eighth edition acutely aware of the model's evolution and of the obligation to make it an effective force for the future. Reforming reform is a delicate undertaking. To make revisions in the specifics of reform measures and to suggest alternatives to strongly held positions should not be viewed as rejecting the past but as building on it to meet changing circumstances with the benefit of wider experience. Institutions must be adapted to address new priorities and new concerns, and to be useful, models must assist in the process of adaptation.
>
> As the National Civic League's Model City Charter Revision Committee undertook development of the eighth edition, participants considered the concept of a model. Back in 1944, on the occasion of the National Civic League's 50th anniversary, Harold Dodds, then president of Princeton University and a former executive director and president of the National Municipal League, described the purpose of a model as being
>
> > ... to set patterns clearly and specifically, delineating the best practice and the best thought on a problem, to correct existing defects, to set high standards which provide something to fight for instead of against ... the model laws brought stability, dignity and scientific fact to 'reform.' They made readily available to officials and citizens the product of the able thinkers on governmental problems.
> >
> > (MC p. iii)

In that spirit, the study commission conducted a review of Bozeman's existing government, met with current and prior elected officials, solicited public comment in focus groups, by survey, and through public hearings. It is the goal of the study commission to adopt "best practices" for the organization of city government. Sometimes that has simply meant keeping or adapting current practice (size of the commission, commission procedure, the office of city clerk, for example). Sometimes that has required modifications or additions to current practice (mandating the update of the capital improvement plan annually, for example). And, sometimes, adoption of new practices (such as minimum criteria for neighborhood groups).

Below are the most important aspects of the charter for citizens' consideration.

Specific Considerations

1. Commission-Manager Form of Government.

Eighty-four years ago Bozeman was the first municipality in Montana to hire a city manager. The most basic conclusion that the Study Commission came to is that Bozeman has been well served by the Commission-Manager form of government. The most important aspect of the city manager form of government is that day to day operation of the city is placed in the hands of a professional manager.

The Model Charter emphasizes the need to insulate the city manager from undue political pressure. In consequence, we have adapted the Model Charter list of City Manager duties and procedures for removal. In the opinion of the Model Charter drafters, and this study commission, the role of the City Manager should be clearly delineated in the charter.

2. City Commission

As a complement to that, elected officials determine policy. In that regard, discussion was held as to how to improve representation on the city commission. We examined alternatives to "at large" election, preferential and cumulative voting, a pure ward system and various "mixed" systems. We also examined enlarging the commission by two members.

After consultation with a citizen focus group, current and prior elected officials, and our own research, and advice from the city attorney (as to preferential voting), we determined that the at large system best serves Bozeman's current needs. As noted in the Model Charter Commentary,

> There is strong support for the all at-large council alternative in smaller municipalities and in those cities where assuring fair representation of minority populations is not an issue. In cities where minority representation is enhanced by election from districts, consideration of the alternatives for mixed systems, with some council members elected at large and some by districts, is recommended.
>
> (MC, p. iv)

Further:

> The Model continues to stress the value of the at-large principle in designing the

composition of a city council, while recognizing the necessity of providing for representation of geographical areas under certain circumstances. In considering the appropriateness of using the at-large system, each city must assess its own situation. The at-large system has generally allowed citizens to choose council members best qualified to represent the interests of the city as a whole.

Nevertheless, in larger cities, citizens may feel isolated from and unconnected to their government without some geographical basis of representation. Cities with significant differences in or conflicts among ethnic, racial, or economic groups may wish to consider whether one of the alternative systems may achieve more equitable representation of the city's population and avoid legal challenges under the Voting Rights Act without sacrificing council effectiveness.

(MC, pp. 7-8)

Based on the above, we concluded that it is premature for Bozeman to move to a pure ward system or mixed system at this time. In addition, we note that communities in Montana that have wards, such as Missoula and Belgrade, often have difficulty finding candidates from those wards. We also took note of the technical problems a ward system would introduce to Bozeman: having an apolitical process for drawing ward boundaries; the necessity of redrawing ward boundaries more frequently than the census due to Bozeman's rapid growth; and the potential of exacerbating divisions in Bozeman by putting narrow geographic interests before the entire community's interests. We did conclude that with the prospect of Bozeman reaching a population of 40,000 by the year 2010, that the voters should consider increasing the size of the commission at that time.

3. The Mayor

In the commission-manager form of government, the mayor has no administrative role in city government. As the Model Charter commentary notes, some communities have even dispensed with the mayor completely. However, Bozeman has always had a mayor, our contacts with citizens indicate they expect there to be a mayor, and we believe that the office of mayor can be reconciled with the existence of a city manager.

As noted by the Model Charter commentary:

> The mayor occupies a strategic location shaped by his or her close relationships with the council, manager, and individual citizens and groups in the community. The mayor is able to promote communications among officials and with the public. Unusual powers are not needed for leadership and may actually curtail leadership by separating the mayor from other officials. Any augmentation of the role of the mayor must not be construed as reducing the power of the council but rather as a way to provide focus and leadership in the development of city policy. Nor should the role of the mayor intrude on the management of the city's operations by the manager.
>
> (MC, pp. v-vi)

In that spirit, we have made clear that the mayor's office is not an administrative one. In particular, we have not given the mayor any special appointment powers (except where mandated by state law) and reiterated that the mayor shall not interfere with city administration

As to how to elect the mayor, our survey did not indicate a clear preference. There was, however, a clear preference by the public for the mayor to serve a training period before assuming office. Therefore, we have presented the public a sub-option of either electing the mayor directly or keeping the current system of the top vote getter becoming mayor. In either case, the mayor so elected will serve a two year training term on the commission as deputy mayor before becoming mayor. This change becomes effective with the 2007 election and will not interfere with the mayor chosen in 2005.

4. City Departments, Boards, and Neighborhood Groups

In addition to the standard language required in a charter recognizing the existence of various city departments (such as planning, the municipal court, and the city attorney), we have endeavored to provide more openness and stability to those aspects of city government manned by volunteer citizens.

First, we have mandated that all city boards shall have staggered terms. This will prevent wholesale turnover after a city election, preserving institutional memory necessary for the smooth functioning of any city board, and encouraging equal treatment of all applicants to city boards over time.

Secondly, in consultation with the InterNeighborhood Council, we have extended principles of open government to those neighborhood groups that seek city recognition and formalized the status of the InterNeighborhood Council. We have also mandated that the city designate a staff member as liaison to the InterNeighborhood Council and neighborhood associations.

5. Fiscal Transparency & Stability

While the state's Municipal Budget Act provides procedural safeguards to ensure both fiscal stability and openness in the formation of Bozeman's budget, the Study commission has also adopted charter provisions to ensure additional fiscal stability and openness.

First, we are requiring that the city commission, by ordinance, will establish and maintain a minimum unreserved fund balance in the general fund based on the best current practice recommended by the national GFOA (Government Finance Officers Association).

Second, we are requiring the city to have a multi-year capital improvement plan (CIP) and to update it annually. Annually updating the plan is particularly necessary in a community growing as fast as Bozeman.

Third, we are requiring that the city budget be made available to the public electronically, i.e., via the web.

6. Professionalism and Ethics

Upon the recommendation of the Model Charter, we have taken steps to adopt the best current practices to ensure that the city shall be administered in a manner above reproach.

Specifically, we reiterate the principle that employment and promotion by the city should be on a merit basis only.

In addition, we have provided for mandatory training of city officials, board members, and employees on the state and city ethics codes (currently, no such training takes place); and have also provided, as permitted by state law, for the creation of an advisory board to assist in updating the city ethics code, as well as to assist the city on implementing training and the enforcement of governmental ethics.

7. Access to Government

We have required measures that we believe will improve citizen access to government. Specifically:

a. Requiring that all city ordinances and resolutions and other city documents be published on the web;
b. Extending principles of open government to neighborhood groups;
c. Making it easier for citizens to exercise their rights of initiative and referendum. To do so we took into consideration the fact that since Bozeman has a large temporary population that, unlike most other communities in Montana, approximately 30% of Bozeman's electorate is composed of so-called "inactive" voters. That number is currently 7,000, according to the Gallatin County Clerk & Recorder's Office. As a result of such a large number of "inactive voters" Bozeman residents may have a more difficult time compared to other communities in collecting signatures for petitions since the percentages of signatures required includes 7,000 voters who, most likely, are no longer in the area. Therefore, we have made gathering signatures for initiative and referendum petitions easier by reducing the required percentages for petitions by the percentage of "inactive voters" as certified by the Gallatin County Clerk & Recorder's Office pursuant to state law.

8. Transition

Current office holders are not affected by this charter. Pursuant to state law the city will have to review all existing ordinances and procedures, and establish some additional ordinances (such as that pertaining to neighborhood groups) to conform them with the charter.

9. Principles of Interpretation

Model Charter: The model charter has been our guide on most matters, and its commentary should be consulted in interpreting this charter unless otherwise noted.

Annotations

Annotations: We note below, section by section, the origin and modifications of each specific charter provision.

("MC" = Model Charter)

CITY OF BOZEMAN, MONTANA
DRAFT CHARTER

PREAMBLE

MC, modified to include reference to self-governing powers,

Article I
POWERS OF THE CITY

Section 1.01. Powers of the City.

MC, modified to include reference to self-governing powers,

Section 1.02. Construction.

(a) Powers.

MC.

(b) Priority Construction.

MC, modified to include reference to self-governing powers, and Montana's Constitution.

Section 1.03. Intergovernmental Relations.

MC

Article II
CITY COMMISSION

Section 2.01. General Powers and Duties.

MC

Section 2.02. Eligibility, Terms, and Composition.

(a) Eligibility.

MC, clarified as to residency.

(b) Terms.

MC

(c) Composition.

MC, with cross-reference to the Mayor's office in Section 2.03(b).

Based on the model charter commentary referenced above (Point 2), the Study Commission concluded that it is premature for Bozeman to move to a pure ward system or mixed system at this time. In addition, we note that communities in Montana that have wards, such as Missoula and Belgrade, often have difficulty finding candidates from those wards. We also took note of the technical problems a ward system would introduce to Bozeman: having an apolitical process for drawing ward boundaries; the necessity of redrawing ward boundaries more frequently than the census due to Bozeman's rapid growth; and the potential of exacerbating divisions in Bozeman by putting narrow geographic interests before the entire community's interests.

According to data provided by the city planning office and SWMBIA, Bozeman's population will increase to 40,000 between now and 2010. We conclude that with the prospect of Bozeman reaching a population of 40,000 by the year 2010, that the voters should consider increasing the size of the commission at that time. This is implemented in a transition rule in Article Nine.

Section 2.03. Mayor

(a) Powers and Duties.

MC, with the exception that we have limited the mayor's appointment power. We have also reiterated that the mayor shall not interfere with city administration. We have also made clear that the mayor elect shall serve as Deputy Mayor (see Section 2.06, below).

(b) Mayor Elected At Large – Top vote getter.

OR

(b) Mayor Elected At Large.

Both alternatives have been tailored to the current practice of the mayor serving four years with a two year training period on the commission.

Section 2.04. Compensation; Expenses.

MC

Section 2.05. Prohibitions.

(a) Holding Other Office.

MC

(b) Appointments and Removals.

MC

(c) Interference with Administration.

MC

Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) Vacancies.
MC, with the addition of detail on the Deputy Mayor's office

(b) Forfeiture of Office

MC, modified by substituting "felony" for "a crime involving moral turpitude"

(c) Filling of Vacancies.

Procedure under state law substituted for MC.

Section 2.07. Judge of Qualifications.

MC

Section 2.08. City Clerk.

Current practice, revised in June 2005, is hereby adopted.

Section 2.09. Investigations.

MC

Section 2.10. Independent Audit.

MC

Section 2.11. Procedure.

Procedure under state law substituted for MC.

Section 2.12. Action Requiring an Ordinance.

Procedure under state law substituted for MC.

Section 2.13. Ordinances in General.

Procedure under state law substituted for MC. In addition, we have required that all "ordinances, administrative regulations, resolutions, and the Bozeman Municipal Code will be published electronically."

ARTICLE III
City manager

Section 3.01. Appointment; Qualifications; Compensation.

MC

Section 3.02. Removal.

MC

Section 3.03. Acting City Manager.

MC, substituting "administrative order" for "letter".

Section 3.04. Powers and Duties of the City Manager.

The city manager shall be the chief executive officer of the city, responsible to the commission for the management of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

MC, with the following additions:

"(15) Prepare the commission agenda;
(16) Appoint members of temporary advisory committees established by the City manager."

ARTICLE IV
DEPARTMENTS, OFFICES AND AGENCIES

Section 4.01. General Provisions.

(a) Creation of Departments.

MC

(b) Direction by City Manager.

MC

Section 4.02. Personnel System.

MC, modified to conform to state law and current city practice.

Section 4.03. Legal Officer.

(a) Appointment.

MC

(b) Role.

MC

Section 4.04. Land Use, Development, and Environmental Planning.

MC

Section 4.05. Municipal Court

Cross reference to existing law.

Section 4.06 Neighborhood Associations

This entire section is new, and not derived from the MC. In developing this section, we consulted the charters of Missoula, Helena, Great Falls and Spokane. The draft was then reviewed with representatives of the InterNeighborhood Council and further changed after public comment.

Section 4.07. City Boards, Commissions and Committees.

This is a non-MC provision, based on current city commission rules with the addition of the requirement that all city boards shall have staggered terms.

ARTICLE V
FINANCIAL MANAGEMENT

Section 5.01. Fiscal Year.

MC, modified to conform to the Montana Local Government Budget Act.

Section 5.02. Submission of Budgets and Budget Message.

MC, with the addition that "The publication requirements must conform to the provisions of state law for a municipality, and be available electronically."

Section 5.03. Budget Message.

MC

Section 5.04. Budget.

(a) Statutory Provisions.

MC, modified to conform to the Montana Local Government Budget Act.

(b) Unreserved Fund Balance.

This provision is not derived from the MC, rather it is the consensus of the Study Commission that a minimum reserve fund based on a national standard will provide additional fiscal stability to the city.

Section 5.05. Adjusting Appropriations.

Derived from MC, Section 5.06, modified to conform with Montana law. May by ordinance reduce or eliminate one or more appropriations.

Section 5.06. Administration and Fiduciary Oversight of the Budget.

MC, Section 5.08.

Section 5.07. Capital Program.

MC, Section 5.09, with the addition of December 15th in paragraph "(a)".

Section 5.08. City Commission Action on Capital Program.

MC, Section 5.10, with the addition of March 15th in paragraph "(b)".

Section 5.09 Independent Audit.

MC, Section 5.11.

Article VI
ELECTIONS

Section 6.01. City Elections.

(a) Regular Elections.

MC, modified to conform to current state law. We examined preferential voting (see www.fairvote.org), however we agree with the opinion of the city attorney that Montana's constitution and law (which refer to "top vote" getters) prevents preferential voting.

We also examined wards and a mixed ward-at large system, as noted in Article Two, above.

(b) **Beginning of term.**

MC, with clarification that the first matter of commission business in January is the swearing in of new members.

Section 6.02. Methods of Electing Commission Members.

MC, Section 6.03, with cross reference to mayor election in Section 2.03(b).

Section 6.03. Initiative; Citizen Referendum, and Recall.

MC, modified to conform with state law. In addition, the study commission examined how to account for the fact that Bozeman has 7,000 "inactive" voters, approximately 30% of the registered electorate. As a result of such a large number of "inactive voters" Bozeman residents may have a more difficult time compared to other communities in collecting signatures for petitions since the percentages of signatures required includes 7,000 voters who, most likely, are no longer in the area. Therefore, we have made gathering signatures for initiative and referendum petitions easier by reducing the required percentages for petitions by the percentage of "inactive voters" as certified by the Gallatin County Clerk & Recorder's Office pursuant to state law.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01. Conflicts of Interest; Board of Ethics.

(a) Conflicts of Interest.

MC

(b) Board of Ethics.

MC, modified to use existing state law as to board structure, clarified to require the city manager to initiate training (as being more consistent with the city manager form of government), modified by requiring board members have ethics training and, additionally that all officials take an oath to uphold the city and state ethics codes.

Section 7.02. Campaign Finance.

MC, modified to recognize existing law.

Article VIII
CHARTER AMENDMENT

Section 8.01 Proposal of Amendment.

MC, modified to accord with state law. Also, modified to account for inactive voters.

Section 8.02. Election.

MC, modified to accord with state law.

Section 8.03. Adoption of Amendment.

MC.

Article IX
TRANSITION AND SEVERABILITY

Section 9.01. Officers and Employees.

(a) Rights and Privileges Preserved.

MC

(b) **Continuance of Office or Employment.**

MC. This charter has no effect on current elected officials.

(c) **Personnel System.**

MC

Section 9.02. Pending Matters.

MC

Section 9.03. State and Municipal Laws.

MC, modified for state law. Montana law has extensive procedures for the transition of government resulting from the adoption of a "new" form of government.

(a) Mayor Election.

Non-model charter, to conform with the alternatives of Section 2.03(b)

(b) Referendum on Increasing the Commission

Non-model charter.

(c) Time of Taking Full Effect.

Non-model charter, in recognition of state law.

Section 9.05. Severability.

MC.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 8th day of August 2006.

Respectfully submitted,
City of Bozeman Local Government Study Commission

LOREN D. OLSEN, Chair

BRIAN F. CLOSE

HAROLD A. FRYSLIE

WILLIAM G. HAYWARD, JR.

MARILOU TURRENTINE

ATTEST:

City Clerk

S
352.0786
L24 L95c

August 20, 1996

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HELENA, MONTANA 59620

Mr. Harold Chambers
Montana State Library
1515 E. Sixth Avenue
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Helena, MT 59620-1800

Mr. Chambers:

In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find a copy of the City of Bozeman's decision regarding the 1994 study commission.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Program Specialist

Enclosure

BOZEMAN
CITY GOVERNMENT STUDY COMMISSION

1994 - 1996

RECEIVED
AUG 2 4 1996
LOCAL GOVERNMENT
SERVICES BUREAU

FINAL REPORT

ADOPTED
AUGUST 13, 1996

PO BOX 6656
BOZEMAN MONTANA 59771-6656
(406) 587-2840

Executed August 19, 1996

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LETTER TO CITIZENS OF BOZEMAN

To the Citizens of Bozeman:

The Bozeman City Government Study Commission elected by the voters on November 8, 1994, or thereafter appointed, presents this tentative report to you, the citizens of Bozeman.

The purpose of the study commission, as defined in Montana law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." After completing these two phases of the study, it is the responsibility of the study commission to submit a tentative report recommending no change, propose an amendment to the existing form of government, or offer an alternative form of government to the qualified electors.

In every review phase this study commission sought advice and information from as many Bozeman citizens as possible. Our recommendations reflect the thoughts and opinions of the citizens who participated in this study process.

This tentative report presents our recommendations for an alternative form of government that will provide the present and future governmental services expected by the public, be more responsive to local citizens, and provide more opportunity for devising solutions to local problems. We feel the citizens of Bozeman can achieve these goals by adopting this Charter, which provides self-governing powers and retains the present commission-manager structure with some alterations.

The question of adopting this alternative form of government will be placed on the ballot November 5, 1996.

We solicit your support for its adoption.

Respectfully submitted,
Bozeman City Government Study Commission

JENNIFER SMITH MITCHELL, Chair

JOANNE H. EATON

ROBERT F. KERN

JEFFREY K. KRAUSS

CARROLL V. HENDERSON

SUMMARY OF RECOMMENDATIONS

A. Findings

Study Commission findings are based on:

- interviews with city department heads, manager, attorney, clerk, and commissioners;
- questionnaires sent to and received from city employees, former and current commissioners, and former and current advisory and administrative boards members;
- citizen opinions obtained from public hearings, joint meetings with the County Study Commission, public participation at our meetings, questionnaires, correspondence and focus groups;
- a scientific statistical telephone survey conducted by an independent professional firm; and
- study of alternative forms of government and individual study commissioner investigations and experience.

The Study Commission's findings are:

1. Bozeman's needs have changed since the approval of its current form of government in 1921. The city faces increased growth in and immediately outside its boundaries. This will continue to challenge the ability of government to meet demands for needed services and to replace its aging infrastructure. These problems might best be addressed by a consolidated city/county government. However, there is insufficient support for consolidation. As a result, Bozeman needs to anticipate and solve these problems itself, or cooperate in new ways with other local governments. Presently city government is little more than an administrative arm of the state government. Bozeman needs the ability to legislate its own solutions to its own problems.

2. Most voters surveyed felt the city commission understands the workings of the city and sets policy effectively. Most voters surveyed also felt city administration manages city operations effectively. However, at least one third of voters surveyed did not think the commission or the management treated the public like a valued customer. A large majority (86%) of surveyed voters wanted to be surveyed periodically about how the city is being managed and operated.

3. Many citizens do not feel represented by city commissioners. Voters have lost that "local" feeling which should be in local government. "At-large" elections inhibit adequate debate between individual candidates, decrease the ability of voters to differentiate between candidates, and increase the money and time needed to campaign. Historically, most commissioners have resided in one section of the city. Many commissioners do not choose to campaign for, or serve, a second term. When surveyed, voters felt lack of consistency was the biggest weakness of the commission.

4. Once elected, commissioners spend 20-30 hours a week at their part-time positions. Even with this large demand on their time, commissioners find it difficult to supervise their staff, coordinate with advisory and administrative boards, spend enough time in long range planning for the city, and meet other demands of the position. Many board members felt access to, and communication with, the commission was limited. A commissioner no longer serves on the city/county planning board. This board addresses the subject most surveyed voters felt was both a priority and the area needing most improvement.

5. Bozeman's present governmental structure does not allow voters to directly select their mayor. This critical leadership position has often been held by people not seeking that office. Most voters surveyed and most public input indicated that citizens want to directly elect their mayor.

6. A large majority of voters surveyed (85%) want to vote on all or some new taxes and fees. Some fees have increased drastically. The city has implemented many new taxes including impact fees, surcharges, garbage tag fees and city-wide special improvement maintenance districts. These new taxes appear to divide the city deeply and cause criticism and distrust of government, in addition to their obvious financial impacts on taxpayers.

In order to address these findings, the study commission recommends: a charter form of government with self-governing powers; maintaining the commission-manager structure; increasing the size of the commission; electing the commissioners by districts; directly electing the mayor; and setting limits on taxes and fees by requiring voter approval.

B. Key Provisions of the Proposal

The proposed charter has the following key provisions:

1. Self-Government Powers: Adopting self-governing powers giving greater flexibility in shaping our governmental structure, more responsibility to recognize and deal with our own problems, and greater power to solve these problems. This option became available under the 1972 Montana Constitution.

2. Commission-Manager Structure: The current commission-manager structure will be maintained with the following minor adjustments. Subject to the commission's general direction, the manager controls the hiring and firing of city personnel, directs and supervises the administration of all departments, prepares the budget, and is in charge of the business affairs of city government. The city attorney shall be hired by the commission.

3. Increased Representation: Creating a commission of seven (7) part-time members will provide a legislative body large enough to insure adequate representation and yet small enough to be efficient. Electing the commission by district and directly electing the mayor at-large will encourage citizen participation and provide a city-wide perspective.

4. Taxes & Fees: Limit all city tax and fee increases to the Consumer Price Index unless approved by the voters. Put an expiration date on all new taxes and fees not approved by the voters.

COMPARISON OF SPECIFIC CHARACTERISTICS

CHARACTERISTICS	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATIVE COMMENTS
Form of Government	Commission-manager form; elected commission determines policy. Manager hired to administer policy.	Self-government charter form with altered commission-manager structure. Elected commission determines policy; mayor provides leadership and hired manager administers policies.	Modernizes form of government as allowed by the 1972 Montana Constitution. Transfers some legislative and administrative powers from the state to the city.
Powers	General government power. State law defines what city government may do and specifically how it shall do it.	Self-government powers; city government may exercise any power which the state does not deny. Legislative power vested in the commission.	Increases the ability of the city to adapt as local conditions change. Freedom to solve local problems with local solutions.
Governing Body: Size	5 commissioners, including the mayor.	7 commissioners, including the mayor.	Reduces individual commissioner work load. Increases the quality and variety of representation, without significantly increasing costs to the taxpayer.
Election	Non-partisan; nominated & elected at-large. Mayor is the commissioner receiving the most votes in the previous city election.	Non-partisan; 6 commissioners representing 3 districts, nominated & elected by district; mayor nominated and elected at-large.	Each citizen is represented by 2 commissioners, plus the mayor, (who seeks the position). Election by districts reduces election and campaign expenses and increases candidate pool.
Terms	4 year overlapping terms.	4 year overlapping terms in each district.	Provides continuity of commission.
Presiding Officer:	Mayor chairs commission.	Mayor chairs commission.	No Change.
Duties	Official head of city.	Official head of city. Nominates all board members for the commission's approval. Chairs finance committee. Directs manager to prepare meeting agenda.	Mayor has all powers of a commissioner, plus a few more leadership duties and represents the whole city. Additional duties increase leadership role.
Chief Administrative Officer:	City Manager.	City Manager.	No Change.
Duties	Hires/fires all city employees. Hires/fires all department heads.	Hires/fires all city employees Hires/fires all department heads.	No Change.
Appointment Powers	Commission appoints members of boards, city manager & clerk of the commission. Manager hires city attorney.	Commission appoints city manager, city attorney & clerk of the commission. Mayor nominates members of boards for commission approval.	Establishes client/attorney relationship between city attorney & commission. Increases commission's power, leadership role and involvement with city policies.
Taxes & Fees	Commission imposes with majority vote or places on the ballot.	Citizens vote on all increases greater then the consumer price index and all new taxes & fees imposed. Sunset non-approved taxes & fees.	More citizen involvement in tax increases; added predictability. Allows for growth and inflation, but encourages efficiency.
Budget Preparation	City manager prepares budget. Commission approves budget.	City manager prepares budget in consultation with the commission, department heads, boards and the finance committee. Mayor chairs finance committee. Commission approves budget.	Increases commission and public involvement in city budget. Boards more responsible for & more involved in their respective budgets.
Service Delivery Structure	Departments decreed by state law. Services performed by departments under the supervision of the city manager.	Commission determines the city organization and departments. Manager administers & supervises.	Allows for organizational structure beneficial to Bozeman's specific needs.
Citizen Participation: Boards	Commission appoints board members.	Mayor nominates all board members for commission approval and appoints 2 positions on planning board per state law. Each citizen board will have a commissioner liaison.	Increases cooperation between citizen boards and the commission.
Community Councils	None.	None.	No change.

CERTIFICATE
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT
FOR
BOZEMAN, MONTANA

If retained by the voters, the government of Bozeman shall be organized under the following provisions of MCA 7-3-4301 which authorizes the elected city official form of government;

7-3-4301. Authorization for commission-manager form of municipal government. (1) Any municipality may abandon its organization and reorganize under the provisions of this part and part 44 by proceeding as hereinafter provided. (2) The form of government provided for in this part and part 44 shall be known as the commission-manager plan and shall consist of a commission of citizens, who shall be elected at-large in the manner hereinafter provided by the following sections:

(a) 7-3-4302 Construction;
(b) 7-3-4303 Laws governing municipality;
(c) 7-3-4304 Territorial limits and property;
(d) 7-3-4305 Petition to organize under commission-manager form - election required;
(e) 7-3-4306 Proclamation and notice of election;
(f) 7-3-4307 Form of ballot;
(g) 7-3-4308 Conduct of election;
(h) 7-3-4309 Effect of vote on question of organization;
(i) 7-3-4310 Special election for municipal officers;
(j) 7-3-4311 Procedure for multimunicipality organization;
(k) 7-3-4312 Effect of organization of communities into single municipal district;
(l) 7-3-4313 Powers of municipalities under commission-manager plan;
(m) 7-3-4314 Composition and general authority of commission;
(n) 7-3-4315 Qualifications of commissioners;
(o) 7-3-4316 Term of office for commissioners;
(p) 7-3-4317 Vacancies;
(q) 7-3-4319 Designation of mayor;
(r) 7-3-4320 Role of mayor;
(s) 7-3-4321 Compensation of commissioners and mayor;
(t) 7-3-4322 Meetings of commission;
(u) 7-3-4323 Conduct of commission business;
(v) 7-3-4324 Procedure to enact ordinance or resolution;
(w) 7-3-4325 Effective date of ordinance or resolution;
(x) 7-3-4326 Emergency measures;
(y) 7-3-4327 Petition for initiative;
(z) 7-3-4341 General provisions relating to elections;
(aa) 7-3-4361 Appointment of city manager;
(bb) 7-3-4362 Role of city manager;
(cc) 7-3-4363 Powers and duties of city manager;
(dd) 7-3-4364 Compensation of city manager;
(ee) 7-3-4365 Investigations by commission;
(ff) 7-3-4366 Investigatory powers of city manager;
(gg) 7-3-4367 Control of conflict of interest;
(hh) 7-3-4368 Execution of conveyances of real property;
(ii) 7-3-4369 Appropriation of property for public or municipal purposes;
(jj) 7-3-4370 Use of county buildings;

(kk) 7-3-4371 Estimate of expenditures and revenues - exception;
(ll) 7-3-4372 Procedure to enact appropriate ordinance - exception;
(mm)7-3-4373 Financial administration;
(nn) 7-3-4374 Details of public advertising or publication;
(oo) 7-3-4401 Administrative departments;
(pp) 7-3-4402 Appointment of department directors;
(qq) 7-3-4403 Role of department director;
(rr) 7-3-4404 Appointment of boards;
(ss) 7-3-4405 Establishment of civil service board;
(tt) 7-3-4406 Organization of board;
(uu) 7-3-4407 Classification of civil service;
(vv) 7-3-4408 Role of civil service board;
(ww) 7-3-4409 Role of chief examiner;
(xx) 7-3-4410 Probationary period;
(yy) 7-3-4411 Procedure for discharge, demotion, or suspension of employee;
(zz) 7-3-4412 Retention of existing positions;
(ab) 7-3-4413 Certification required to receive salary;
(ac) 7-3-4414 Investigatory powers of civil service board;
(ad) 7-3-4415 Prohibition on discrimination in employment;
(ae) 7-3-4416 Violation of civil service provisions;
(af) 7-3-4417 Fixing compensation;
(ag) 7-3-4418 Power to establish eight-hour day;
(ah) 7-3-4431 Department of finance;
(ai) 7-3-4432 Accounting procedures;
(aj) 7-3-4433 Claims and issuance of warrants;
(ak) 7-3-4434 Purchase and sale of supplies and property;
(al) 7-3-4435 Approval required for certain contracts;
(am) 7-3-4436 Sinking fund trustees;
(an) 7-3-4441 Department of public service;
(ao) 7-3-4442 Local improvements;
(ap) 7-3-4443 Utility connections;
(aq) 7-3-4444 Supervision of plats;
(ar) 7-3-4445 Subdivided lands;
(as) 7-3-4446 Acceptance of streets or alleys;
(at) 7-3-4447 Supervision of public places;
(au) 7-3-4448 Vacating or changing name of street;
(av) 7-3-4449 Grant of right to use or occupy public places;
(aw) 7-3-4450 Renewal of franchises;
(ax) 7-3-4451 Prohibition on exclusive grant or franchise;
(ay) 7-3-4452 Grant to operate public utility;
(az) 7-3-4453 Assessments for snow, ice, weed, and rubbish removal;
(ba) 7-3-4461 Department of law;
(bc) 7-3-4462 Office of city judge;
(bd) 7-3-4463 Department of public welfare;
(be) 7-3-4464 Department of public safety;
(bf) 7-3-4465 Police department; and
(bg) 7-3-4466 Fire department.

We, the Study Commissioners of the City of Bozeman, do hereby certify this is the existing plan of government for the city of Bozeman.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19th day of August, 1996.

SEAL

ATTEST: Robin L. Sullivan
ROBIN L. SULLIVAN
Clerk of the Commission

Jennifer Mitchell
JENNIFER SMITH MITCHELL, Chair

Joanne H. Eaton
JOANNE H. EATON

Robert F. Kern
ROBERT F. KERN

Jeffrey K. Krauss
JEFFREY K. KRAUSS

Carroll V. Henderson
CARROLL V. HENDERSON

CERTIFICATE
ESTABLISHING THE PROPOSED CHARTER
FOR
BOZEMAN, MONTANA

PREAMBLE: We, the people of Bozeman, Montana, grateful for our past, confident of our future and having considered the form of government which will best maintain the health, safety and welfare of our citizenry, do adopt this charter to establish our self-determination as a city.

ARTICLE I
GENERAL PROVISIONS

Section 1.01 - Powers of the City
The city shall have all powers possible for a self-government city not specifically prohibited under the Constitution, the laws of this State, and this charter.

Section 1.02 - Taxes & Fees

1. City fees and charges imposed on city residents or assessed on real or personal property within city limits shall increase no more than the percentage increase in the Consumer Price Index-Urban (CPI-U). The index used shall be the CPI-U (National) from the U.S. Department of Labor, Bureau of Labor Statistics for the twelve (12) month period ended in December of the previous year. However, at any city general election or by special election, the city commission may place on the ballot a measure to approve greater increases. If approved by a majority vote, the city commission shall then implement the increase the following fiscal year.

2. All new special taxes, fees, charges and assessments, however denominated, charged to city residents or upon real or personal property within the city of Bozeman, including, but not limited to, special maintenance district assessments, impact fees, surcharges for services, and permit fees, shall be submitted to city voters at the next city general election following the approval of such by the city commission. Should any such tax, levy, fee, charge or assessment not be approved by a majority of those voting, it shall be valid only for the period starting with commission approval up to the end of the fiscal year ending June 30 following said city general election, after which time it shall not be imposed, assessed, charged, or levied by city commission action without a prior vote of approval in a city general election. Existing taxes and/or fees shall not be considered "new" under this charter.

3. Paragraphs 1 & 2 above shall not apply to the all-purpose general fund mill levy.

4. All Montana statutory and constitutional limitations regarding the level of property taxes in Class I Cities with general government powers shall apply to the city of Bozeman.

Section 1.03 - Oath of Office
Before beginning the duties of office, all elected city officials shall take and subscribe to the following oath of office: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, the Constitution of the State of Montana, the Charter of the city of Bozeman and that I will discharge the duties of my office with fidelity (so help me God)."

ARTICLE II
LEGISLATIVE

Section 2.01 - Legislative Branch
The legislative branch shall be the city commission and the mayor. A majority of the whole number of the commission shall constitute a quorum. A majority vote of the whole number of the commission is required to pass a motion.

Section 2.02 - Composition
The city commission shall be comprised of seven (7) voting members: six (6) city commissioners and the mayor.

Section 2.03 - Election
The procedure for the nomination and election of all city officials shall be as prescribed by state law for non-partisan elections.

Section 2.04 - Forfeiture of Office
1. The office of commission member or mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. A commission member or mayor shall forfeit office if the official:
   a) lacks at any time during his/her term of office any qualification for the office prescribed by the charter or by law; or
   b) violates any expressed prohibition of this charter; or
   c) is convicted of a felony.

Section 2.10 - City Commission: Election, Terms, Vacancies and Qualifications
1. Commissioners shall be elected from three (3) districts, only by the voters who reside in each district. Two (2) commission members shall be elected from each district.

2. Commissioners shall serve for terms of four (4) years. One (1) commissioner from each district shall be elected every two (2) years.

3. Commissioners shall reside within the district from which they are nominated and elected and shall be qualified voters of the city of Bozeman.

4. If there are more than two (2) candidates for any one commission seat, a primary election shall be held. The two (2) candidates receiving the highest number of votes in the primary shall advance to the general election.

5. Commissioners and the mayor shall take office the first Monday after January 1 in the year following the election.

6. The commission shall be the judge of the election, qualifications of its members, and the grounds of forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand.

7. In the event of a vacancy, the commission shall, by majority vote of the remaining members, appoint a person eligible to hold such commission seat to fill the vacancy until the next regular city election. At that time the remainder of the term shall be filled through the election procedure described in this charter.

8. If any elected city official runs for a different public office, that official must resign the city office presently held, unless the expiration of that official's present term ends on or before the commencement date of the office being sought.

Section 2.12 - Compensation
The commission shall establish, by ordinance, the annual compensation of its members including the mayor. No commission member or mayor shall receive a salary increase in the same term that the increase was authorized.

Section 2.13 - City Commission: Powers & Duties

1. The commission shall be the legislative and policy determining body of the city. All powers of the city shall be vested in the commission, except as otherwise provided by law or this charter. The commission shall provide for the exercise thereof and for the performance of all other duties and obligations imposed on the city by law.

2. Specific commission powers and duties include, but are not limited to:
   a) appointing, supervising and removing the professional staff of the commission;
   b) designating substitutes for the professional staff in case any member of the staff becomes incapacitated and is unable to perform their duties;
   c) adopting an annual budget, levying taxes and special assessments, borrowing money, and issuing bonds subject to Montana law. Appropriations, exclusive of bond and loan indebtedness, shall not exceed anticipated revenue;
   d) adopting an administrative and personnel code;
   e) adopting procedures for contracting with private and public agencies;
   f) approving citizens nominated by the mayor to boards, councils, special committees or any other body established pursuant to law;
   g) serving as liaison to boards (every board shall have a commissioner liaison);
   h) providing for a mandatory independent annual audit of all city accounts and more frequent audits as it deems necessary; and
   i) meeting as often as necessary to conduct city business.

Section 2.20 - Mayor: Election, Terms and Qualifications

1. The mayor shall be a resident and qualified voter of the city of Bozeman and shall be elected at-large for a term of four (4) years.

2. After every regular city election, the commissioners, no later than one month after taking office, shall elect the mayor pro tempore from among themselves. The mayor pro tempore shall serve as the presiding officer in the absence of the elected mayor.

3. If there are more than two (2) candidates for mayor, a primary election shall be held. The two candidates receiving the highest number of votes in the primary shall advance to the general election.

Section 2.21 - Mayor: Powers and Duties

1. The mayor shall be the presiding officer of the commission and shall have full commissioner powers. The mayor shall be the official head of the government for the purposes of civil processes, State military law, all ceremonial occasions, and shall execute contracts, deeds and other documents approved by the commission.

2. Specific mayoral powers and duties include, but are not limited to:
   a) exercising all powers and duties imposed by this charter, the ordinances of the city and the laws of the state, except that the mayor shall have no power to veto any measure;
   b) directing the manager to set the agenda for commission meetings. The agenda shall include any item the mayor or any two commissioners direct the clerk of the commission to add upon written notice to the manager and the clerk of commission five (5) days prior to the meeting;
   c) nominating all members of boards, commissions or special committees to the commission for its approval;
   d) appointing two citizen members who reside within the city limits to the city-county planning board; and
   e) chairing the finance committee.

Section 2.30 - Administrative Review

On a majority vote of the whole number of the commission, the commission shall review, and/or investigate any operation, management decision, administrative function or other affairs of the city. The commission may compel, by subpoena, the attendance and testimony of witnesses and the production of books and records.

Section 2.31 - Appointment and Removal of Professional Staff and Prohibitions

1. The manager, attorney and clerk of the commission shall be the professional staff and contractual employees of the commission.
2. The commission shall appoint and contract with its professional staff by a majority vote of the whole number of the commission and based on merit. The staff shall serve at the pleasure of the commission for an indefinite term.
3. The commission may remove a professional staff member by a majority vote of the whole number of the commission.
4. The commission shall set the salary of its professional staff.
5. Neither the commission, its members, nor the mayor shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the manager or any of the manager's subordinates are empowered to appoint.

Section 2.32 - Interference with Administration

1. Except for purposes of review and investigation, the commission, its members and the mayor shall deal with the city officers and employees who are subject to the direction and supervision of the manager solely through the manager.
2. Neither the commission, its members, nor the mayor shall give orders to any city officer or employee either publicly or privately.
3. A department head, or the department head's designee, shall attend commission meetings as requested by the manager, mayor or commission.

ARTICLE III
ADMINISTRATION

Section 3.00 - City Manager

The city manager shall be the chief administrative officer of the city and shall be responsible to the commission for the administration of all city affairs required by this charter, law, ordinance or resolution. The manager shall not be the mayor or a commission member at the time of employment. Once appointed, the manager shall reside in the city of Bozeman.

Section 3.01 - City Manager: Duties & Responsibilities

1. The manager shall:
   a) carry out policies established by the commission;
   b) perform the duties as required by law, ordinance, resolution, or this charter;
   c) enforce laws, ordinances and resolutions;
   d) administer the affairs of the city;
   e) direct, organize, supervise and administer all departments, agencies and offices of the city;
   f) appoint, suspend and remove all employees of the city government except the commission's professional staff;
   g) prepare the budget in consultation with the commission, department heads, representatives of

applicable advisory and administrative boards, and the finance committee of the commission. The manager shall submit the budget for commission approval and execute the budget adopted by the commission;

h) report publicly to the commission at least quarterly on the financial condition of the city;
i) recommend measures to the commission;
j) attend commission meetings and take part in the discussion, but have no vote;
k) appoint, with the approval of the commission, an acting manager to exercise the powers and perform the duties of the manager during temporary absences; and
l) perform such other duties as the commission may prescribe.

2. The manager shall not delegate any of the duties and responsibilities in this section without consent of the commission.

3. The manager may, without notice, examine the affairs of any department, division, office, agency or other city administrative unit or employee under the manager's authority.

Section 3.10 - City Attorney

1. The city attorney is the chief legal adviser to the commission, the manager and all city departments, offices and agencies. The attorney shall maintain the client-attorney relationship with the commission. The attorney shall represent the city in all legal proceedings and shall perform any other duties prescribed by ordinance. The attorney shall not be the mayor or a commission member at the time of employment and need not be a resident of the city or state at the time of employment.

2. The attorney shall be licensed to practice as an attorney in the state of Montana.

Section 3.11 - City Attorney: Duties & Responsibilities

The attorney shall:

1. attend before the city or municipal court and other courts, and prosecute on behalf of the city;

2. draft, for the use of the commission, contracts and ordinances for the government of the city;

3. give written opinions on questions pertaining to the duties and the rights, liabilities and powers of the city when requested by either the mayor or commission;

4. perform such other duties pertaining to the functions of the city as the commission may prescribe by resolution;

5. attend or send a qualified representative to all commission meetings; and

6. appoint assistant city attorneys with approval of the commission.

Section 3.12 - Employment of special or additional legal counsel

Nothing in this charter shall prevent the commission from employing in special cases on a contract basis:

1. an attorney to perform services not specifically provided under MCA 7-4-4604; or

2. additional or other legal counsel.

Section 3.20 - Clerk of the Commission

The clerk of the commission shall perform a variety of secretarial, clerical and managerial duties to ensure the effective and efficient operation of the legislative branch of the city of Bozeman.

Section 3.21 - Duties of Clerk of the Commission related to administration: In addition to those duties prescribed by MCA 7-4-4501, the clerk of the commission shall:

1. train the administrative and advisory board secretaries as requested by those boards;

2. process board minutes and distribute copies to commission members and manager; and

3. perform such other duties as the commission may prescribe.

Section 3.22 - Duties of Clerk of the Commission related to city records and papers: In addition to those duties prescribed by MCA 7-4-4502, the clerk of the commission shall index and retain all inter-local agreements.

Section 3.30 - Administrative Code
The commission shall adopt a written administrative code which shall provide the complete plan of organization of the city government and shall include, but not be limited to:

1. the function, organization, procedures and reporting relationships for each department;

2. comprehensive budget schedules and procedures for the government; and

3. operating procedures for boards, commissions and any other government bodies.

Section 3.31 - Personnel Code
The commission shall adopt a written comprehensive personnel code.

ARTICLE IV
CITIZEN INVOLVEMENT IN GOVERNMENT

Section 4.01 - Citizen Involvement
The commission shall establish boards, councils, special committees, commissions and other bodies of an advisory or administrative nature to assist the commission in the exercise of its duties. The city of Bozeman encourages citizens to participate in these bodies by serving as members and attending meetings.

Section 4.02 - Appointment, Compensation, Terms and Qualifications for Boards, Commissions or Special Committees

1. The mayor shall nominate all members for appointment to boards, commissions or special committees for the commission's approval, unless otherwise provided by federal or state law, interlocal agreement, city ordinance or this charter.
   a) The commission shall designate boards, commissions or special committees responsible for individual funds or trust accounts as administrative boards, commissions or special committees. All other boards, commissions or special committees shall be designated as advisory boards, commissions or special committees.
   b) Notice of a vacancy shall be published fifteen (15) days prior to appointment.
   c) Members of boards, commissions or special committees shall hold no elected city office unless required by federal or state law, interlocal agreement, city ordinance, or this charter.
   d) Members of boards, commissions or special committees shall not be eligible for reappointment to the same board, commission or special committee at the end of their term after serving seven (7) years without a two (2) year recess.

2. Board, commission, or special committee members shall serve without compensation.

Section 4.03 - Initiative, Referendum and Recall.
The electors of the city of Bozeman may exercise the powers of the initiative, referendum and recall as provided by Montana law.

Section 4.04 - Open Government
All records of the city of Bozeman, including the commission and all boards, special committees and commissions, shall be open to the public as provided by Montana law. All meetings and hearings of such bodies shall be publicly announced in advance and shall be open to the public as provided by Montana law.

ARTICLE V
FINANCIAL ADMINISTRATION

Section 5.01 - Budget

1. The manager shall prepare the budget in consultation with the applicable boards and department heads.
2. Each department head shall submit to the manager the full report of the department's anticipated revenues and expenditures in comparison to the previous year.
3. The manager shall present to the commission a comprehensive budget which shall detail:
   a) all sources and uses of funds;
   b) all revenues classified by source;
   c) all expected expenditures classified by department, fund and object code; and
   d) a comparison of actual prior year and anticipated revenues and expenditures by designated accounts.
4. The commission shall establish a finance committee to be chaired by the mayor. This committee:
   a) shall participate in the budget process by examining all or part of the manager's proposed budget;
   b) may authorize performance audits or other evaluations of individual departments or processes; and
   c) shall receive applicable comments from boards, commissions or special committees.
5. The commission shall account separately for all trust and dedicated funds. Neither these funds nor their respective operations shall be intermingled with other city funds or operations.
6. The commission may authorize loans from trust funds to other city funds. These loans shall be repaid to the trust fund within ten (10) years of the initial loan. These loans from trust funds shall earn interest of not less than the effective yield on 5-year U.S. Treasury Notes, as of November 30 of the preceding year and adjusted every November 30 thereafter. Interest shall be paid semi-annually on December 31 and June 30 to the trust funds.
7. The commission may dissolve trusts and funds dedicated for future needs with values (including cash and/or property) of $25,000 or less with a three-fourths (¾) majority vote of the whole number of the commission. Dissolving such funds in excess of $25,000 in value requires voter approval.

ARTICLE VI
REAPPORTIONMENT

Section 6.01 - Reapportionment of Districts

Within six (6) months after the release of the United States census data, the commission shall modify the boundaries of commission districts so no district differs in population from the average population of all districts by more than five percent (5%).

Section 6.02 - Redistricting

District boundaries may be changed by ordinance. Revised district boundaries must comply with the population standard prescribed in this charter or by Montana law. In the event of a judicial challenge to the ordinance, the burden of demonstrating compliance shall rest upon the city.

Section 6.03 - Annexation

1. Any newly annexed area that is in a precinct which is new to the city shall be included in the district with which it shares the largest boundary.
2. Any newly annexed area that is in a precinct already partially included in a district shall become part of that district.

ARTICLE VII
AMENDMENT OF CHARTER and SEVERABILITY

Section 7.01 - Amendment of Charter
This charter may be amended only as provided by Montana law. A majority of those voting on the question shall be required for passage of a charter amendment.

Section 7.02 - Severability
If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of the charter, or any part of its provisions, to any person or circumstances is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE VIII
TRANSITION PROVISIONS

Section 8.01 - General Transition
The current commission shall, by ordinance, provide for transition to the charter form of government consistent with Montana law, (MCA 7-3-157).

Section 8.02 - Election Transition

1. The present commission shall continue in office and govern until the new commission and mayor are elected and take office.

2. Following the adoption of this charter, and in keeping with the current city election schedule, a mayor and four (4) commission members shall be elected.

3. Present commission members shall represent the district in which they reside and shall serve to the end of their present terms.
   a) District 1. The two commission members in district 1 shall serve to the end of their term in 2000. The commission members elected in the 1999 city general election shall draw lots to determine who will serve a four (4) year term and who will serve a two (2) year term.
   b) District 2. The commission members elected in the 1997 city general election shall draw lots to determine who will serve a four (4) year term and who will serve a two (2) year term.
   c) District 3. The commission members elected in the 1997 city general election will draw lots to determine who will serve a four (4) year term and who will serve a two (2) year term.
   d) Mayor. Nominated and elected at-large in the 1997 city elections.

4. This transitional article shall become effective November 6, 1996, and shall expire on January 3, 2000.

5. This charter shall become effective January 5, 1998.

6. All city of Bozeman employees may continue in the performance of their duties according to existing personnel provisions, unless their positions are terminated by the administrative code. Employees whose positions are terminated by provisions of the administrative code shall be given first consideration for other city employment.

7. Salaries of all city employees shall not be less than their present level unless a change in salary of such employees is made in accordance with the provisions of the personnel code. Salaries for the commission and mayor shall remain at their present level.

8. Pension and retirement rights of city employees shall be unaffected by this charter.

9. By January 15, 1998, the manager shall submit the administrative code and the personnel code to the

commission for review. The commission shall adopt the administrative code and personnel code by ordinance as amended within three (3) months after their submission.

Section 8.03 - Publishing of Transition Article
This transition article shall be published with the charter until it expires on January 3, 2000.

Section 8.04 - City Commission Districts
The city commission districts for the first election shall be

District I: Precincts 9, 11, 13, 20, 26 & 49.
District II: Precincts 1, 2, 3, 4, 5, 14 in & 22 in.
District III: Precincts 6, 7, 8, 10, 12 & 19.

Section 8.05 - Compliance of Ordinances

1. The commission shall review, and where necessary, revise or repeal city ordinances to provide for their compliance and consistency with this charter no later than June 30, 1998.
2. All existing ordinances of the city of Bozeman, except those in conflict with provisions of this charter, shall remain in effect unless and until superseded by action of the commission.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the proposed plan of government approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19th day of August, 1996.

ATTEST: Robin L. Sullivan
ROBIN L. SULLIVAN
Clerk of the Commission

J. Mitchell
JENNIFER SMITH MITCHELL, Chair

Joanne H. Eaton
JOANNE H. EATON

Robert F. Kern
ROBERT F. KERN

Jeffrey K. Krauss
JEFFREY K. KRAUSS

Carroll V. Henderson
CARROLL V. HENDERSON

CERTIFICATE
FOR THE APPORTIONMENT
OF COMMISSIONER DISTRICTS

Districts described by census block with population and deviation from ideal are shown.

TABLE 1. Districts with 1990 Census Population, 1990 Ideal Population (Mean), Deviation from Ideal Population, and % Difference from the Ideal Population.

DISTRICT	1990 CENSUS POPULATION	1990 IDEAL POPULATION (MEAN)	DEVIATION FROM IDEAL POPULATION	% DIFFERENCE FROM IDEAL POPULATION
1	6,506	7,536	- 1030	-13.67%
2	8,172	7,536	+ 636	+ 8.44%
3	7,930	7,536	+ 394	+ 5.23%
Total Population Estimate = 22,608				
Margin of Error at 5% = 1130.40				

Table 1 displays preliminary results using information from 1990 census data to estimate the division of districts. Established voting precinct boundaries in Bozeman were taken into consideration when preliminary lines for these three districts were drawn. Precincts falling into District One are 9, 11, 13, 20, 22, 26, and 49; District Two are 1, 2, 3, 4, 5, and 14; and District Three are 6, 7, 8, 10, 12, and 19.

TABLE 2. Districts with 1995 Estimated Population, 1995 Estimated Ideal Population (Mean), Deviation From Ideal Population, and % Difference from the Ideal Population.

DISTRICT	1995 ESTIMATED POPULATION	1995 ESTIMATED IDEAL POPULATION (MEAN)	DEVIATION FROM IDEAL POPULATION	% DIFFERENCE FROM IDEAL POPULATION
1	8,638.13	8,487.58	+150.55	+1.77%
2	8,525.95	8,487.58	+ 38.37	+ .45%
3	8,298.67	8,487.58	- 188.91	- 2.23%
Total Population Estimate = 25,462.75				
Margin of Error at 3% = 763.88				

Table 2 displays the 1990 census data plus update information to the end of 1995, to determine if final districts are divided evenly. The Ideal Population (mean) is calculated by dividing the Total Population Estimate (1990 census data and 1991-95 population estimates) by the number of city commission districts (25,462.75/3 = 8487.58). The % Deviation from the Ideal Population shows how closely districts are in population (divide the Estimated Population by the Estimated Ideal Population). Although the general rule in calculating the margin of error is within 5% of the ideal population, a margin of error of 3% was achieved. To remain within 3% of the mean, each district population must remain within 763.88 points of the mean.

Established voting precinct boundaries in Bozeman were used when lines for these three districts were finally drawn. Precincts falling into District One are 9, 11, 13, 20, 26, and 49; District Two are 1, 2, 3, 4, 5, 14, and 22; and District Three are 6, 7, 8, 10, 12, and 19.[1]

We, the Study Commission of the City of Bozeman, do hereby certify that this is the official apportionment plan for commissioner districts approved by the Bozeman City Government Study Commission.

In testimony whereof, we set our hands.

SEAL

Done at Bozeman, Montana this 19th day of August, 1996.

ATTEST: Robin L. Sullivan
ROBIN L. SULLIVAN
Clerk of the Commission

J. Mitchell
JENNIFER SMITH MITCHELL, Chair

Joanne H. Eaton
JOANNE H. EATON

Robert F. Kern
ROBERT F. KERN

Jeffrey K. Krauss
JEFFREY K. KRAUSS

Carroll V. Henderson
CARROLL V. HENDERSON

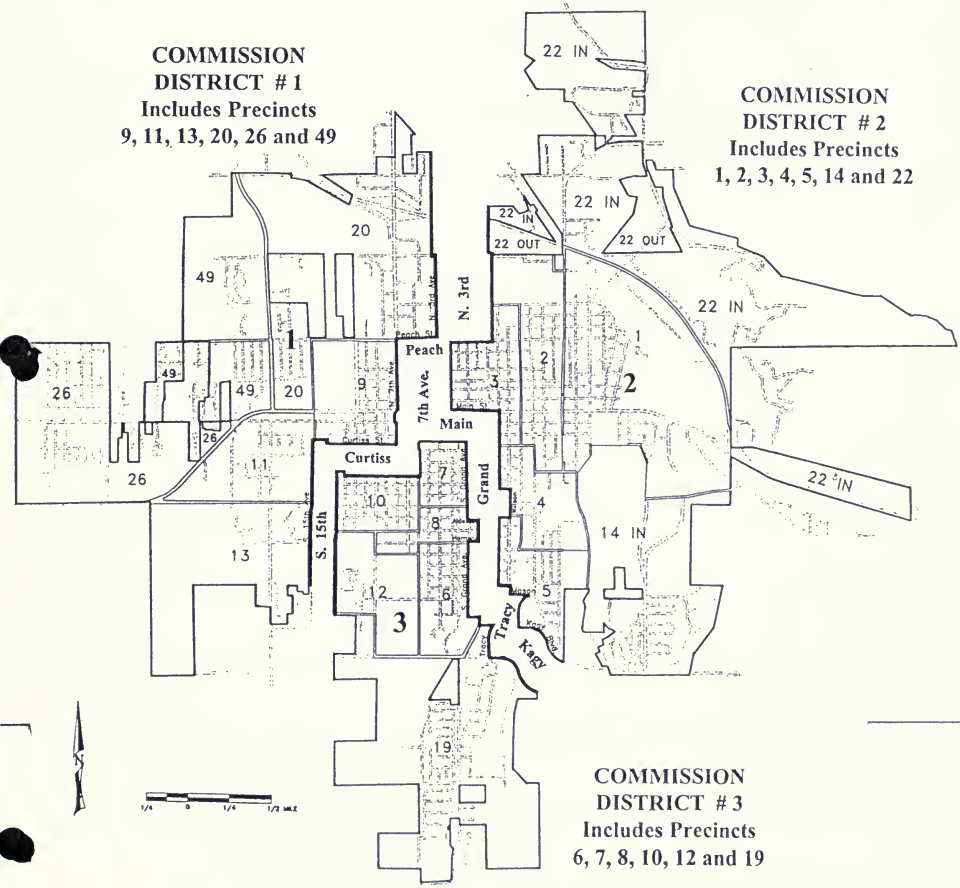
1 This summary of population acquisition was performed by Heather Unger-Robertson. She holds a Masters Degree in Sociology from Mississippi State University and worked for two years as a Research Assistant at Mississippi State's Social Science Research Center. Her work involved professional writings and grant proposals, which required extensive work with census data. Heather has researched, written, and presented numerous professional papers.

CITY of BOZEMAN

PROPOSED COMMISSION DISTRICTS

PROPOSAL: 7 Part-time Commissioners: 1 Mayor Elected at-Large and 6 Commissioners, from 3 Districts with Alternating Terms.

EXPLANATION: 3 Districts, of Equal Population, divided along Voting Precinct Boundaries. These divisions are based on the 1990 Census, and estimated population increase through December 31, 1995.



CERTIFICATE
ESTABLISHING THE DATE OF THE SPECIAL ELECTION
AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT
SHALL BE PRESENTED TO THE ELECTORS OF
BOZEMAN, MONTANA

The alternative form of government proposed by the Bozeman City Government Study Commission shall be submitted to the voters of Bozeman at a special election to be held with the general election on November 5, 1996.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the date of the special election approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19th day of August, 1996.

ATTEST: Robin L. Sullivan
ROBIN L. SULLIVAN
Clerk of the Commission

J R Mitchell
JENNIFER SMITH MITCHELL, Chair

Joanne H. Eaton
JOANNE H. EATON

Robert F. Kern
ROBERT F. KERN

Jeffrey K. Krauss
JEFFREY K. KRAUSS

Carroll V. Henderson
CARROLL V. HENDERSON

CERTIFICATE
ESTABLISHING THE OFFICIAL BALLOT FOR
THE NOVEMBER 5, 1996 SPECIAL ELECTION

Instructions to voters: Place an "X" in the boxes which express your preferences.

OFFICIAL BALLOT

BALLOT ON THE ALTERNATIVE FORM OF LOCAL GOVERNMENT

Vote for One.

[ ] FOR adoption of the self-government charter as proposed for the city of Bozeman by the Bozeman City Government Study Commission.

[ ] FOR the existing form of government.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the official ballot approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19th day of August, 1996.

ATTEST: Robin L Sullivan
ROBIN L. SULLIVAN
Clerk of the Commission

Jennifer Mitchell
JENNIFER SMITH MITCHELL, Chair

Joanne H. Eaton
JOANNE H. EATON

Robert F. Kern
ROBERT F. KERN

Jeffrey K. Krauss
JEFFREY K. KRAUSS

Carroll V. Henderson
CARROLL V. HENDERSON

CERTIFICATE
ESTABLISHING THE DATES OF THE
FIRST PRIMARY AND GENERAL ELECTIONS
FOR OFFICERS OF THE NEW GOVERNMENT
OF BOZEMAN, MONTANA
IF THE ALTERNATIVE PROPOSAL IS APPROVED
AND ESTABLISHING THE EFFECTIVE DATE OF
THE PROPOSAL IF APPROVED

The primary election for officers of the new government of the City of Bozeman, Montana shall be held at a special election on September 9, 1997.

The general election for officers of the new government of the City of Bozeman, Montana shall be held at a special election on November 4, 1997.

The effective date of the alternative plan of local government of the City of Bozeman, Montana takes effect when the first elected officers take office on January 5, 1998.

We, the Study Commissioners of the City of Bozeman, do hereby certify that these are the dates of the special primary and general elections and the effective date of the alternative plan of local government of Bozeman approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19th day of August, 1996.

ATTEST: Robin L Sullivan
ROBIN L. SULLIVAN
Clerk of the Commission

JS Mitchell
JENNIFER SMITH MITCHELL, Chair

Joanne H Eaton
JOANNE H. EATON

Robert F Kern
ROBERT F. KERN

Jeffrey K Krauss
JEFFREY K. KRAUSS

Carroll V Henderson
CARROLL V. HENDERSON

TOWN OF BRIDGER GOVERNMENT STUDY COMMISSION FINAL REPORT

To the Citizens of the Town of Bridger:

The Town of Bridger Study Commission that were appointed by the Mayor present this final report to the citizens of this Town.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of our town government and procedures for delivery of local government services and compare them with other forms available under the laws of the state".

In the conduct of our review the study commission sought advice and information from a number of people in the town. All meetings of the study commission were open to the public. A public meeting was held to determine citizen opinion.

As a result of discussions held with the people, the Town of Bridger Study Commission has concluded that there is general consensus that the existing Commission Executive (council-mayor) with Charter form of government has served this town well since its organization in 1976, and will continue to do so in the future. We therefore recommend no change in this form of government.

Respectfully submitted.

Evelyn McBride
Member

Norma Berry
Member/Secretary
Town of Bridger Study Commissioners

Town of Bridger
Local Government Study Commission

Evelyn Richards and Norma Berry, two of the three members of the Bridger Local Government Study Commission met March 30, 2005, 2:00 p.m. in the Council Chambers of Town Hall.

The third member, Dan Mills, had called Norma and said he is now in Wyoming and wouldn't have time for this. This will be reported to the Town Council.

As no funds are available for the Study Commission, we thought we could conduct a telephone survey if we are able to obtain some sample questions to be asked.

* * * * * * * * * * * * *

Evelyn Richards and Norma Berry met at 2:00 p.m. on September 5, 2006, at Norma's house.

The forms of government available for municipalities were discussed. The current form of government (Mayor-Council) was reviewed. We felt it was the best form of government for the Town of Bridger.

* * * * * * * * * * * * *

After meeting with the Town Council on September 5, 2006, at their regular meeting, it was decided to hold a public meeting on September 20, 2006, at 7:00 p.m. in the temporary council chambers. All Town residents were encouraged to attend and review the government of the Town of Bridger.

* * * * * * * * * * * * *

At the public meeting on September 20, 2006, eight Town residents were in attendance along with Norma Berry of the Local Government Study Commission. After reviewing the forms of government for municipalities and the present form of Council-Mayor with Charter, it was the decision of all present that no changes be made to the present form.

Several concerns of those present which they would like to be made known to the Town Council were:

1. Semi trucks coming into Town from the South in the early hours of the morning are using jake brakes.
2. Speeding on Main Street
3. Old buildings parked on the North entrance of Town not a very inviting sight to our Town.
4. Bring in businesses and create jobs.

MONTANA
DEPARTMENT OF COMMERCE

Local Government Assistance Division
Local Government Services-Systems Program
1424 9th Avenue PO Box 200501
Helena, MT 59620-0501

Phone: (406) 444-3010
FAX: (406) 444-9785
TDD: (406) 444-2978

October 3, 1995

Mr. Harold Chambers
Montana State Library
1515 E. Sixth Avenue
PO Box 201800
Helena, MT 59620-1800

Mr. Chambers:

In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find a copy of the Town of Bridger's decision regarding the 1994 study commission.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Administrative Assistant

Enclosure

MONTANA
DEPARTMENT OF COMMERCE

Local Government Assistance Division
Local Government Services-Systems Program
1424 9th Avenue PO Box 200501
Helena, MT 59620-0501

Phone: (406) 444-3010
FAX: (406) 444-9785
TDD: (406) 444-2978

October 3, 1995

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In accordance with Section 7-3-187, MCA, local government study commissions are to file two copies of their final report with the department of commerce, local government services bureau. One of these copies is to be forwarded by the department of commerce to the state library.

Enclosed you will find a copy of the Town of Bridger's decision regarding the 1994 study commission.

Sincerely,

Marlene Hughes

MARLENE A. HUGHES
Administrative Assistant

Enclosure

RECEIVED
OCT 03 1995
LOCAL GOVERNMENT SERVICES BUREAU

September 28, 1995

TOWN OF BRIDGER STUDY COMMISSION
FINAL REPORT

The Town of Bridger Study Commission approved (150 to 100) by the voters on November 8, 1994 to review our local government. Joe Brookshier was duly elected while Bill Asbury and Phyllis Sundberg were appointed by the current Town Council to make a three-member commission.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of our town government and procedures for delivery of local government services and compare them with other forms available under the laws of the state".

Our Town of Bridger adopted and passed in 1976 to have the self-government charter form. One major change in 1976 was to do away with wards and elect councilmen at large. The 1986 Local Study Commission also approved this charter form.

As commissioners, we have studied materials on the various forms of government in Montana, interviewed town employees and made a house to house survey of Bridger residents. Summary of this survey was given to the Mayor and Council and was published in our local newspaper. On the survey, 72% responded that our present charter form of government was satisfactory.

All meetings of the study commission were open to the public. Two public hearings were held to determine citizen opinion. Interest was almost nil. All activities of the Commission were well advertised both before and after meetings.

As a result of all the above, we, the Bridger Local Government Study Commission recommend no change, and to continue with the self government charter form of government.

Respectfully submitted,

Town of Bridger Study Commission

Attest:

Deanna Hay
Town Clerk, Bridger

Chairman Joseph D. Brookshier

Member Phyllis J. Sundberg

Member Bill Asbury

COPY

FINAL REPORT
TO THE CITIZENS OF THE TOWN OF BROADUS, MONTANA

The Town of Broadus, Montana Study Commission consisting of two Commission Members elected by the voters on November 2, 2004 and Mayor Amsden appointed the third position on the Study Commission on November 16, 2004, present this ***final report*** to the citizens of this incorporate Town.

The purpose of the Study Commission is to study the existing form and powers of the local government and procedures for delivery of local government services and compare them with other forms available under the laws of the state. The Study Commission is to keep the public informed of their meetings and hold public hearings for the purpose of gathering information regarding the current form, functions, and problems of local government. After several meetings and public hearings the Commission will write and adopt the final report for the Department of Administration, containing the form of local government for the Town of Broadus.

The study commission sought advice, opinions, recommendations, suggestions and information from residents of the Town of Broadus and local government officials. All meeting of the study commission were open to the public, with only one concerned citizen attending one of those meetings.

The study commission recommendations reflect the thoughts and opinions of those who contacted the commission member(s) outside the public meetings, those who attended the public meetings, and the independent research efforts of this study commission.

The study commission having thoroughly studied all available forms of government, have found the existing form of government, "Commission-Executive form" meets the needs of the citizens of Broadus, Montana. This traditional form of local government has existed in Broadus since the creation of the town in 1945. A study commission was completed in June 1976 finding the residents of the Town of Broadus agreed continue with the traditional form of government with four council members and one mayor. Therefore, on this 21st day of January 2005, this Study Commission feels the basis for the continuation of the existing Commission-Executive form of government is valid.

CERTIFICATE OF EXISTING PLAN OF GOVERNMENT

WE, THE STUDY COMMISSIONERS of the Town of Broadus, do hereby certify the existing form of local government as adopted in the Montana Code Annotated, Title 7, Chapter 3, Part 2., 1997.

IN TESTIMONY WHEREOF, We set our hands.

Done at Broadus, Montana, on the 21st day of January 2005.

Ann Carroll, Chairperson

Hugh Fulton, Vice-Chairperson

Roger Quaring, Member

ATTEST:

Peggy Sue Fruit, Clerk

OWN

WITH GOOD PEOPLE IN IT

IN A GOOD COUNTRY

TOWN OF BROADVIEW
(INCORPORATED)
BROADVIEW, MONTANA 59015

RECEIVED
DEC 16 2004
ADMINISTRATION
LOCAL GOVERNMENT
SERVICES BUREAU

December 15, 2004

Local Committee Service Bureau
P.O. Box 200547
Helena, MT 59620-0547

To Whom It May Concern:

Enclosed is the report of the 2004 Broadview Government Study Commission for your files.

Thank you.

BROADVIEW TOWN COUNCIL

John Hougardy, Mayor
667-2393

Ralph Brewington, Councilman
667-2342

David Mosdal, Councilman
667-2333

Sonya Anderson, Councilwoman
667-2294

Leo Bogden, Certified Public Works Director
667-2254

Carol Terpstra, Town Clerk
667-2268

2004 Broadview Government Study Commission

The undersigned members of the Broadview Government Study Commission submit the following report regarding the governance of the Town of Broadview.

It is agreed unanimously that the following practices are in place and desirable:

1.) Elections are held on a town-wide basis rather than involving two or more precincts.

2.) The number of town council members, the selection of the Mayor and staggered terms for the council members is acceptable.

It should be noted that only two significant changes have been made to the political operation of the Town of Broadview: change from two precincts to one precinct and the Mayor is chosen by and from the elected council members rather than elected separately from the council.

In short, the operation and governance of the Town of Broadview is working very well at this time and no changes need be considered.

In testimony whereof, we set our hands.
Done at Broadview this 23rd day of November, 2004.

Attest: David Mosdal
Town Council Ex-Officio Member

Margaret A. Conover

Robert G. Conover

Shawn V. Thomas

Broadview Government Study Commissioners

BROADWATER COUNTY
LOCAL GOVERNMENT STUDY COMMISSION

FINAL REPORT

STATE DOCUMENTS COLLECTION
OCT 12 2006
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

AUGUST 18, 2006

FINAL REPORT

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2. County Administrator

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I. LETTER TO THE CITIZENS OF BROADWATER COUNTY

GOVERNMENT STUDY COMMISSION FINAL REPORT

To the Citizens of Broadwater County:

The Broadwater County Study Commission elected by the voters on November 8, or thereafter appointed presents this final report to the citizens of this county.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of our county government and procedures for delivery of local government services and compare them with other forms available under the laws of the state". If some change is deemed necessary the study commission may submit such proposed change to the electors.

In the conduct of their review the study commission has sought advice and information from a number of people in the county. Opinions and recommendations were solicited from local government officials, community organizations and citizens. All meetings of the study commission were open to the public. Public hearings were held to determine citizen opinion.

As a result of discussions held with the people and groups mentioned the Broadwater County Study Commission has concluded that there is general consensus that the existing county commission form of government has served this county well since its organization in 1895.

However with the increasing population growth in the county, a consistent theme repeatedly was expressed by the citizens. A need for greater communications between departments and the citizens and a plan that details the priorities in the county with a time line repeatedly became the core critique.

Respectfully submitted,

Broadwater County Study Commissioners

II. REPORT SUMMARY

The Broadwater County Government Study Commission having thoroughly studied our present form of county government and the alternative forms of government available to counties under state law and having studied the future governmental needs of the county, recommending the following:

1. Broadwater County should adopt effective January 1, 2008 the charter form of government with self-government powers (charter).

2. Creating the office of County Administrator.

A. Findings of the Study Commission

After an intensive study of almost two years, it is the decision of the study commission to recommend changes in the structure and power of county government that will provide a governmental framework to meet the changing needs of this county. Problem areas that were identified during the course of the study by discussion, public hearings, and testimony of public officials indicate that in exercising its traditional functions, county government lacks the authority it needs. If county government is to play a wider role it must have adequate legal authority to act; it must also have more control over its organizational structure so that it can act effectively and oversee the performance of county functions.

The "traditional" form of county government has existed in Broadwater County since the creation of the county in 1895, and is basically the same government as was originally described in the 1889 Constitution. The form still reflects its "traditional" role as an administrative arm of the state government in its organizational structure. Its duties are detailed in state law, and its authority to deal with local problems is limited.

The needs of the county, however, have changed since 1895. Population is increasing rapidly, population patterns are shifting, and citizen demands for services are rising. The population increase of 3% in the past 5 years is placing heavy new demands on county government to provide urban services such as roads, law enforcement, and refuse disposal. To effectively respond to these growing needs, county government must modify its structure and authority.

Other areas of concern also emerged during the course of the study which affected the study commission's choice of an alternative form. Citizen response, and testimony at the pubic hearings, indicated that citizens are concerned about communications not being effective at the local level, about the quality of services (especially roads), about the level of taxes, and about the lack of visioning and programmed deliverables in county government future.

These frustrations and expectations of citizens and local officials alike, in addition to the changing role of county government, and growing needs of the county, led the study commission to identify four basic goals:

Findings of the Study Commission (continued)

1. Government Visioning and Prioritizing;

2. Government that is responsive to citizens;

3. Local Control Over Local Problems;

4. A government structure that allows maximum participation by citizens;

In an attempt to achieve these goals, the study commission has recommended a commission form of government with self-government powers, and the hiring of a County Administrator.

B. Key Provisions of the Proposal

1. Self-Government Powers

Under the 1972 State Constitution, the potential power and authority of local government had been changed. Traditionally, the power over governmental concerns of the county has been the prerogative of the state legislature. The legislature decided what county government should do and how it should do it.

The new constitution provides that "self-government powers" can be adopted by counties along with an alternative form of government. The adoption of self-government powers would alter the traditional relationship between the state and the county. Certain areas of control would be transferred from the state legislature to the county commission. Some decisions that are now made on a state-wide basis by the legislature could be made at the county level. State-wide uniformity, while still mandated in certain areas, could be replaced in other areas with procedures tailored to the particular needs of our county. Self- government powers would mean greater flexibility in shaping our governmental structure, greater power to solve our own problems, and more responsibility to recognize and deal with these problems.

2. County Administrator

The County Administrator, a professional administrator hired by the commission "on the basis of merit only" is responsible for the administration of the programs and policies determined by the commission. Subject to the commission's general direction, the administrator directs and supervises the administration of all departments, operates as the focal point and collection point for all citizen and county operational concerns, and is in charge of business affairs of county government. The administrator serves at the pleasure of the commission and may be replaced at any time.

III. COMPARISON OF THE EXISTING FORM OF GOVERNMENT AND THE PROPOSED FORM OF GOVERNMENT

EXISTING FORM

Policy-making and administrative structure. The "traditional" form of county government has existed in Broadwater County since the creation of the county in 1895. It is basically the same government as described in the 1889 constitution; in structure and powers it reflects its role as an administrative arm of state government. It can best be described as a collection of 6 somewhat autonomous administrative offices consisting of a commission of three members and 5 elected officials. In addition, many boards, commissions and special districts operate within county government.

The three member board of county commissioners is elected by the voters of the county for overlapping six year terms; the term of one commissioner expires every two years, each commissioner must reside in the district he or she represents, but commissioners are elected at-large on a county-wide basis. Elections are non-partisan.

The commissioners serve as the executive branch of the county government and are responsible for the administration of the business affairs of the county as outlined in state law. They approve the county budget, levy taxes, issue bonds, enter into contracts, approve claims, and may buy, sell and lease county property. They also have the responsibility to appoint members of boards and commissions and any department heads who are not elected.

Under the existing form of government, county commissioners have rather limited authority to supervise officials and employees of the county government. They can supervise those whom they appoint, but the only control they have over departments headed by elected officials is through the county budget. They also have some authority over the salaries and number of deputies which the elected officials may have.

In addition to the three commissioners, there are nine other elected officials under the existing form of government:

Sheriff/ Coroner
County Attorney/ Public Administrator
Clerk and Recorder
Treasurer/ County Superintendent of Schools/ Auditor
Clerk of District Court

The salaries as well as the powers and duties of these officials are determined by state law under the existing form, and each official is nearly independent from the supervision of the commissioners or from any other central administrative authority.

Numerous boards, commissions and special districts also operate in the county to administer services. These governmental bodies range in authority from advisory agencies which are subordinate to the commissioners, to those which operate independently of commission control. Members of these various boards may be appointed by the county commissioners or in some cases are elected.

EXISTING FORM (continued)

Structures for the delivery of services. In some instances the county is acting as an agent of the state in providing "traditional" services such as elections, property tax collections, and so forth, but increasingly county government is involved in providing urban-type services. Major county provided services include:

Elections
Record keeping functions
Financial administration
Maintenance of roads and bridges
Agricultural and rural services (such as county fairs, Cooperative Extension Service. weed & insect)
Public safety and judicial administration (such as law enforcement, county attorney. and justice courts)
Social services (such as health department hospitals and nursing homes, and ambulance services)
Recreation
Parks
Planning and development

Under the existing form of government some services are provided by elected county officials (for example, the Clerk and Recorder, Treasurer, Sheriff, etc.) while others such as libraries, airports, health services, weed control. etc. are provided by the numerous boards and special districts mentioned above. In some cases, these boards and districts provide services in instances in which the county, under existing state law, does not have the authority to provide services directly.

Power and authority of county government. One of the most important provisions in the proposed form of government is self-government power. Under the existing form of government, Broadwater County operates with limited powers which are restricted by the so-called "Dillon Rule". This judicial interpretation states that local governments have only those powers specifically granted to them by the state legislature. It further provides that if there is any doubt as to the existence of a local government power, the power is to be denied.

PROPOSED FORM OF GOVERNMENT

Power and authority Under provisions of the 1972 Montana Constitution and state laws passed in 1975, voters in Montana counties, through the proposals of their local government study commissions, can choose a different kind of power and authority for their county government. This arrangement of state-local power sharing is called "self-govemment powers". Self-government powers means that a local government with those powers can take any action or engage in any activity unless specifically prohibited by the state or U.S. Constitution, state law or local charter. Essentially, this is a reversal of the old rules regarding local government powers in that there is no need for a grant of powers, since the local unit is free to act unless prohibited.

PROPOSED FORM (continued)

In a law adopted in 1975, the state legislature stipulated those powers and authority which would be denied to local governments with self-government powers. In a few pages the legislature reserved a series of powers and functions to the state. Most of the powers denied to local government were retained by the state because of the necessity of state-wide uniformity in several important areas such as the conduct of elections, law affecting private or civil relationships, fish and game, etc. or to safeguard "due process" and individual rights of the citizens of the state.

But even with these limitations, local governments adopting self-government powers will have the freedom to determine their own internal structure including departments, boards, bureaus, and commissions and to determine the type, level and method of providing services such as roads, health services, fire and police protection, libraries, parks, water and sewer services, and solid waste disposal.

Comparison of Specific Characteristics of the Existing and the Proposed Forms of Government

The attached chart (Table 4-1) compares thirteen characteristics of the existing form of county government with the proposed form of government. Under the last column entitled "comments" the study commission has included short summaries of why we are proposing some changes in each area.

Recommendations and Reasons

The first responsibility of the study commission was to study and evaluate the present form of government in this county; the second responsibility was to compare the existing form with alternative forms available to Montana counties; and then to decide whether or not to offer an alternative that can best meet the needs of this county to the voters.

The decision of the Broadwater County study commission to recommend a commission form with self-government powers is made in the belief that such a government can best meet county needs as identified during the course of this study.

Citizen testimony at the public hearings indicated that citizens are concerned about communications between elected officials, and between elected officials and the general public. In addition they were concerned about the quality of services (especially roads) in relation to the level of taxation, and about the lack of vision and a clear definition of goals and dates for implementation in county government. A major concern of our county commissioners was their lack of authority to deal with many local problems, feeling helpless and buried in red tape when dealing with the state government. Although held responsible for county operations, they actually have little state granted control over operations.

In addition to these concerns of citizens and local officials, the study commission considered what population growth in our area would mean for county government. The dramatic increase at the far ends of the county is placing new demands on county government to provide fire coverage, law enforcement, and refuse disposal.

Taking into consideration the frustrations and expectations of citizens and local officials alike, along with the changing role of county government and the growing needs of the county, the study

Recommendations and Reasons (continued)

commission identified five basic criteria or goals which the recommended form should meet. The proposed form of government would fulfill these goals in the following ways:

1. Government Visioning and Prioritization. A major problem in the existing form of county government is that there is no Strategic Plan that gives the government as well as the public an idea of the direction and priorities that will lead the county ahead in the most constructive path possible. This Strategic Plan would be the clearing house that contains all existing plans that the county has already produced. But the most important component would be the implementation plan that would help to prioritize the policies and expenditures, as set out in the plan. Commissioners, for example, could use this as a vehicle to determine prioritization of the capital improvements. This tool would give reasons for why fiscal funds would be spent each year, and give a projected timeline for when other funds would be allocated for other priorities further down on the planning list.

2. Government that is Responsive to Citizens. County government that can respond to citizen needs must first have adequate representation so that all interests in the county are represented with an even hand and a timely manner. In the opinion of the study commission, the present form of government has weaknesses in structure and access that prevent it from accomplishing these goals.

It is questionable whether a part time commission of three members with many diverse interests of a county, an incorporated city, several unincorporated areas, and a rural farm population, can respond and communicate effectively. The three commissioners elected by district give a diverse geographic representation, but communications in a timely and inclusive manor appear to be very difficult to maintain in all areas. This lack of communication appears to add to frustrations and sometimes discontent directed towards the elected officials. It is being proposed that a County Administrator would fill that void that appears to be happening, especially due to the lack of a Visioning Plan and the explosive growth in the county.

In the area of administrative structure, Broadwater County study commission concluded that there were several significant problems. It seemed clear, for example, that there is currently no centralized or administrative authority in county government. It is unclear who, if anyone is actually running Broadwater County. This fragmentation of authority is partly due to the many independent elected officials who are not formally coordinated in any way. There is no central focus in which county-wide priorities can be established and implemented.

A second problem which the study commission identified was the further fragmentation of responsibility through the proliferation of boards. These boards are often small independent governments of their own which operate outside the public eye. There is a lack of accountability to the people of the county when voters have no idea who serves on these boards or what the boards do.

The county administrator would provide an effective focal point for the county employees and public by establishing clear lines of communication and responsibility. The administrator would have the authority to supervise and coordinate the many activities of county government and many boards, while still being responsible to the commission.

Recommendations and Reasons (continued)

3. Local Control Over Local Problems. Although county government will continue to perform many state-mandated functions and be subject to state law in areas where state-wide uniformity is desirable, the adoption of self-government power will increase the authority and the flexibility of county government to deal with local problems. Currently under general government powers, the functions and organization of county government are regulated by state laws which are designed to apply to all counties in the state regardless of their different problems.

The study commission believes that self-government powers for Broadwater County would have a number of advantages over the existing system of powers. In terms of response time to new problems or opportunities, for example, a self-government county is free to act without waiting for approval of the state legislature. Under the existing system the county must wait for a legislative grant of power.

The second advantage for self-government is both more subtle and in the long run perhaps more important. It is the power of self-government counties to provide services and organize their internal affairs in the manner that seems best for them. To understand what this means one must bear in mind that while the existing system can provide a wide range of services, it can provide these services only in the manner prescribed by the legislature. The following example could be expanded to include almost every service which county government provides.

Both the proposed self-government and the existing general government counties can provide for refuse disposal, but while a self-government county can do so in a manner it finds appropriate, a general government county must create a district which instead of being an integral part of county government is administered by a separate board. Similarly a county with existing general government powers which wishes to control mosquitoes must create a district, controlled by an independent board. It should be stressed that if a county with self-government wished to do so, it could provide services using the same methods as are presently authorized for general power governments. The critical difference is that they do not have to do it in that manner. They are free to provide the service in whatever manner they find most suitable.

4. Government Structure that Allows Maximum Participation by Citizens. The study commission found that under the existing form of government there is very little public involvement in county decisions. Few county residents have any idea of what officials do. In such a vast county, night meetings once a quarter are an essential element to increase the access of the county commissioners to the general public.

TABLE 4-1

COMPARISON OF SPECIFIC CHARACTERISTICS

CHARACTERISTIC	PRESENT FORM	PROPOSED FORM	EVALUATIVE COMMENTS
Form of Government	***Commission Form*** Merges legislative, administrative & executive powers in commission	No CHANGE	
Powers	**GENERAL GOVERNMENT POWERS** State law defines what government may do and specifically how it shall do it. Little power to pass ordinances.	**SELF-GOVERNMENT POWERS** County government shall exercise any power which the state does not deny. Legislative power vested in the Council	Self-government powers bring to the county the power to act in its own best interest, and flexibility in shaping government structure.
Governing Body Size **Election** **Term** **Presiding Officer** **Duties**	3 commissioners nominated by district, elected at-large. Non-Partisan 6 year overlapping terms Chairman--Elected from own members Commission is responsible for executive and many administrative functions. Administrative powers are shared with other elected officials.	NO CHANGE	
Other Elected Officials	4 elected officials: County Attorney/ Public Administrator Sheriff/ Coroner Clerk & Recorder/Treasurer/ Superintendent of Schools/Assessor Clerk of Court	NO CHANGE	

APPENDIX A

CERTIFICATE

ESTABLISHING THE EXISTING PLAN OF GOVERNMENT FOR BROADWATER COUNTY

If retained by the voters, the government of Broadwater County shall be organized under the following provisions of MCA 7-3-111 which authorizes the elected county official form of government:

7-3-111. Statutory basis for elected county official government.
(1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections:
(a) 7-3-401;
(b) 7-3-402;
(c) 7-3-412(3);
(d) 7-3-413(1);
(e) 7-3-414(1);
(f) 7-3-415(2);
(g) 7-3-416(2);
(h) 7-3-417(2);
(i) 7-3-418;
(j) 7-3-432(1);
(k) 7-3-433(1);
(l) 7-3-434(1);
(m) 7-3-435(1);
(n) 7-3-436(1);
(o) 7-3-437(6);
(p) 7-3-438(6);
(q) 7-3-439(6);
(r) 7-3- 440(6);
(s) 7-3-441(6);
(t) 7-3-442(6);
(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.
These sections establish the following form of government which shall be called the **COMMISSION FORM**.

CERTIFICATE A (continued)

ESTABLISHING THE EXISTING PLAN OF GOVERNMENT

7-3-401. Commission form. The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

7-3-402. Nature of government. Local governments that adopt this form shall have general government powers.

7-3-412 (3). Selection of commission members. The commission shall be elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominated candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside.

7-3-413 (2). Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-414 (1). Chairman of commission. The chairman of the commission shall be elected by the members of the commission from their own number for a term established by ordinance.

7-3-415 (2). Administrative assistants. The commission may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

7-3-416 (2). Terms of the commission members. Commission members shall be elected for overlapping terms of office.

7-3-417 (2). Size of commission and community councils. The size of the commission, shall be three, and community councils to advise commissioners may be authorized by ordinance.

7-3-418. Terms of elected officials. The term of office of elected officials may not exceed 4 years, except the term of office for commissioners in counties adopting the form authorized by Article XI. section 3(2), of the Montana constitution may not exceed 6 years. Terms of office shall be established when the form is adopted by the voters.

7-3-432 (1). County Attorney, A legal officer shall be elected.

7-3-433 (1). Sheriff. A law enforcement shall be elected.

7-3-434 (1). Clerk and recorder. A clerk and recorder shall be elected.

CERTIFICATE A (continued)

ESTABLISHING THE EXISTING PLAN OF GOVERNMENT

7-3-435 (1). Clerk of district court. A clerk of district court shall be elected.

7-3-436 (1). Treasurer. A treasurer shall be elected.

7-3-437 (6). Surveyor. A surveyor shall not be included in this form as a separate office.

7-3-438 (6). Superintendent or schools. A superintendent of schools shall not be included in this form as a separate office.

7-3-439 (6). Assessor. An assessor shall not be included in this form as a separate office.

7-3-440 (6). Coroner. A coroner shall not be included in this form as a separate office.

7-3-441 (6). Public administrator. A public administrator shall not be included in this form as a separate office.

7-3-442 (6). Auditor. An auditor shall not be included in this form as a separate office.

We, the Study Commissioners of Broadwater County do hereby certify that this is the existing Plan of Government as established by Section 7-3-111 MCA.

SEAL

In testimony whereof we set our hands.

Done at Co this 18 day of 2006.

ATTEST:
Clerk & Recorder of
Broadwater County

LOCAL GOVERNMENT STUDY COMMISSIONERS

CERTIFICATE C

ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT FOR BROADWATER COUNTY

Upon approval of the majority of voters, the government of Broadwater County shall be organized under the following provisions of Section 7-3-701 MCA.

7-3-701. Charter form. (1) The purpose of this part is to comply with Article XI, section 5(1), of the Montana constitution, which provides: "The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, revise, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body."
(2) Charter provisions establishing executive, legislative, and administrative structure and organization are superior to statutory provisions:

We, the Study Commission of Broadwater County do hereby certify that this is the Proposed Plan of Government approved by the study commissioners of Broadwater County.

SEAL

In testimony whereof we set our hands.
Done at 08 this 18 day of, 2006.

ATTEST: _____
CLERK & RECORDER OF
BROADWATER COUNTY

LOCAL GOVERNMENT STUDY COMMISSIONERS

CERTIFICATE D

ESTABLISHING THE DATE OF THE SPECIAL ELECTION

AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT

SHALL BE PRESENTED TO THE ELECTORS OF

BROADWATER COUNTY

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of Broadwater County at a special election to be held with the general election on November 7, 2006

We, the Study Commissioners of Broadwater County do hereby certify that this is the date of the special election approved by the Study Commissioners of Broadwater County.

SEAL

In testimony whereof, we set our hands.

Done at DB this 16 day of 2006.

ATTEST: _____

CLERK & RECORDER OF
BROADWATER COUNTY

LOCAL GOVERNMENT STUDY COMMISSIONERS

CERTIFICATE E
ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT FOR BROADWATER COUNTY

OFFICIAL BALLOT NO._____

Broadwater County Study Commission official ballot for the November 7, 2006 General Election.

Broadwater County citizens have asked the Study Commission to submit to the voters a Charter form of government with "self-governing powers" which allows the county to react quickly to changing conditions. The Charter provides for clarification of responsibilities and duties of elected officials and staff.

This charter can only be changed by a vote of the citizens.

PLEASE VOTE ON BOTH ISSUES.

1.

☐ FOR Adopting a charter for Broadwater County with self governing powers

☐ FOR the existing form of government.

2.

Sub-option to be included in the new form of government, if it is adopted.

☐ FOR requiring the Broadwater County Commissioners to appoint a County Administrator.

☐ AGAINST requiring the Broadwater County Commissioners to appoint a County Administrator.

The Study Commission has agreed to continue their elected positions for the transition into the county charter with county citizens and staff involvement.

We, the Study Commission of Broadwater County, do hereby certify that this is the official ballot approved by the Study Commissioners.

ATTEST: _____
The Clerk and Recorder for the
County of Broadwater

In Testimony whereof, we set our hands

_____

_____

_____

Local Government Study Commissioners

CERTIFICATE E (continued)

ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT FOR BROADWATER COUNTY

OFFICIAL BALLOT NO.____

Broadwater County Study Commission official ballot for the November 7, 2006 General Election.

If the proposed charter form of government is not approved by the voters, the existing commission form of government shall be amended to require the Board of County Commissioners to appoint an administrative assistant to be named "County Administrator" to assist them in the supervision and operation of the local government.

☐ FOR the adoption of the amendment to the existing commission form of government to appoint an administrative assistant. "County Administrator"

☐ AGAINST the adoption of the amendment to the existing commission form of government to appoint an administrative assistant. "County Administrator"

We, the Study Commission of Broadwater County, do hereby certify that this is the official ballot approved by the Study Commissioners.

ATTEST: _____
The Clerk and Recorder for the County of Broadwater

In Testimony whereof, we set our hands

_____

_____

_____

Local Government Study Commissioners

RECEIVED
AUG 1 8 2006
ADMINISTRATION
LOCAL GOVERNMENT
SERVICES BUREAU

Findings of the Study Commission

After an intensive study of almost two years, it is the decision of the study commission to recommend changes in the structure and power of county government that will provide a governmental framework to meet the changing needs of this county. Problem areas that were identified during the course of the study by discussion, public hearings, and testimony of public officials indicate that in exercising its traditional functions, county government lacks the authority it needs. If county government is to play a wider role it must have adequate legal authority to act; it must also have more control over its organizational structure so that it can act effectively and oversee the performance of county functions.

LEGAL NOTICE

The Broadwater County Study Commission will propose two ballots for the November 7, 2006 General Election. The purpose of the Study Commission, as defined by law, is to study the existing form and power of our county government and procedures for delivery of local government services and compare them to other forms available under the laws of the State of Montana.

Opinions and recommendations were solicited from local government officials, community organizations and citizens.

With the increasing population growth in the county, a need for greater communications between departments and the citizens and a plan that details the priorities in the county with a time line repeatedly became the Core Critique.

The Study Commission is recommending the following:

1. Broadwater County should adopt effective January 1, 2008, the commission form of government with self-governing power (Charter)

2. Creating the office of County Administrator

The "traditional" form of county government has existed in Broadwater County since the creation of the county in 1895, and is basically the same government as was originally described in the 1889 Constitution. The form still reflects its "traditional" role as an administrative arm of the state government in its organizational structure. Its duties are detailed in state law, and its authority to deal with local problems is limited.

The needs of the county, however, have changed since 1895. Population is increasing rapidly, population patterns are shifting, and citizen demands for services are rising. The population increase of 3% in the past five years is placing heavy new demands on county government to provide urban services

such as roads, law enforcement, and refuse disposal. To effectively respond to these growing needs, county government must modify its structure and authority.

Recommendations and Reasons

1. **Government Visioning and Prioritization** A major problem in the existing form of county government is that there is no Strategic Plan that gives the government as well as the public an idea of the direction and priorities that will lead the county ahead in the most constructive path possible. This Strategic Plan would be the clearing house that contained all existing plans that the county has already produced. But the most important component would be the implementation plan that would help to prioritize the policies and expenditures, as set out in the plan.

2. **Government that is Responsive to Citizens.** The county administrator would provide an effective focal point for the county employees and public by establishing clear lines of communication and responsibility. The administrator would have the authority to supervise and coordinate the many activities of county government and many boards, while still being responsible to the commission.

3. **Local Control over Local Problems.** The study commission believes that self-government powers for Broadwater County would have a number of advantages over the existing system of powers. In terms of response time to new problems or opportunities, for example, a self-government county is free to act without waiting for approval of the state legislature. Under the existing system the county must wait for a legislative grant of power.

4. **Government Structure that allows maximum Participation by citizens.** The study commission found that under the existing form of government there is very little public involvement in county decisions. Few county residents have any idea of what officials do. In such a vast county, night meetings once a quarter will allow access by Broadwater County citizens to the government process.

A copy of the Final Report with the complete findings and recommendations can be obtained from the Broadwater County Clerk and Recorder's office and the Broadwater County Community Library.

In Testimony whereof, we set our hands
(s) John Hahn, Chairman
(s) Brian Obert
(s) Ernie Nunn
Local Government Study Commissioners

Findings of the Study Commission

After an intensive study of almost two years, it is the decision of the study commission to recommend changes in the structure and power of county government that will provide a governmental framework to meet the changing needs of this county. Problem areas that were identified during the course of the study by discussion, public hearings, and testimony of public officials indicate that in exercising its traditional functions, county government lacks the authority it needs. If county government is to play a wider role it must have adequate legal authority to act; it must also have more control over its organizational structure so that it can act effectively and oversee the performance of county functions.

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such as roads, law enforcement, and refuse disposal. To effectively respond to these growing needs, county government must modify its structure and authority.

Recommendations and Reasons

1. **Government Visioning and Prioritization** A major problem in the existing form of county government is that there is no Strategic Plan that gives the government as well as the public an idea of the direction and priorities that will lead the county ahead in the most constructive path possible. This Strategic Plan would be the clearing house that contained all existing plans that the county has already produced. But the most important component would be the implementation plan that would help to prioritize the policies and expenditures, as set out in the plan.

2. **Government that is Responsive to Citizens.** The county administrator would provide an effective focal point for the county employees and public by establishing clear lines of communication and responsibility. The administrator would have the authority to supervise and coordinate the many activities of county government and many boards, while still being responsible to the commission.

3. **Local Control over Local Problems.** The study commission believes that self-government powers for Broadwater County would have a number of advantages over the existing system of powers. In terms of response time to new problems or opportunities, for example, a self-government county is free to act without waiting for approval of the state legislature. Under the existing system the county must wait for a legislative grant of power.

4. **Government Structure that allows maximum Participation by citizens**. The study commission found that under the existing form of government there is very little public involvement in county decisions. Few county residents have any idea of what officials do. In such a vast county, night meetings once a quarter will allow access by Broadwater County citizens to the government process.

A copy of the Final Report with the complete findings and recommendations can be obtained from the Broadwater County Clerk and Recorder's office and the Broadwater County Community Library.

In Testimony whereof, we set our hands
(s) John Hahn, Chairman
(s) Brian Obert
(s) Ernie Nunn
Local Government Study Commissioners

CHARTER
OF
BROADWATER COUNTY, MONTANA

PREAMBLE

WE, THE PEOPLE OF BROADWATER COUNTY, STATE OF MONTANA, in accordance with Article XI, Section 5 of the Constitution of the State of Montana, do hereby adopt this Charter.

ARTICLE I
POWERS OF THE COUNTY

Section 1.01 Powers of Broadwater County

Broadwater County shall have all powers not prohibited by the Constitution of the State of Montana, the laws of Montana, or this Charter.

Section 1.02 Interpretations of Powers

The self government powers and authority of this government shall be liberally construed. Every reasonable doubt as to the existence of a county power or authority shall be resolved in favor of the existence of that county power or authority.

Section 1.03 Restrictions on Powers

1. The property tax mill levy shall be limited to that of Montana county governments with general government powers, except with the prior approval of a majority of the electors voting on the question in a general or special election.

2. No increase in any county license fee, user fee or utility charge shall be made without conducting a public hearing, as required by law.

Section 1.04 Charter Supremacy

As provided by Article XI, Section 5 of the Constitution of the State of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

ARTICLE II
LEGISLATIVE BRANCH

Section 2.01 Legislative Body

The elected legislative body of Broadwater County shall be the board of county commissioners, which shall have the power to set policy by adoption of lawful ordinances and resolutions.

Section 2.02 Governing Body

The governing body of Broadwater County shall be the board of county commissioners, which may be called the county commission or the commission.

Section 2.03 Composition

The board of county commissioners shall be composed of three (3) commissioners.

Section 2.04 Qualifications for Office

Every resident of Broadwater County who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of commissioner for the district in which he or she resides.

Section 2.05 Term of Office

Members of the commission shall be elected for six (6) year, overlapping terms of office. One commissioner shall be elected every two years.

Section 2.06 Election

1. Elections of county commissioners shall be conducted on a nonpartisan basis.

2. Commission members shall be elected at large but nominated by commissioner district in which the candidate must reside in for at least two years previous to the time of his or her election and during their entire term of office.

Section 2.07 Division of the County into Commissioner Districts

Following each federal decennial census the commission shall cause Broadwater County to be divided into three commissioner districts, as compact and equal in population and area as possible.

Section 2.08 Vacancy in Office

The office of commissioner becomes vacant as prescribed by law.

Section 2.09 Removal from Office

A commissioner may be removed from office as prescribed by law or by the recall of the commissioner by the electors of Broadwater County, as prescribed by law.

Section 2.10 Filling Vacancy on Commission

When a vacancy occurs in the office of commissioner, the position shall be considered open and subject to nomination and election at the next general county election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election the commission shall appoint, by the affirmative vote of two (2) commission members, a person possessing the qualifications for office required by law and this Charter within 60 days of the vacancy to hold office until the successor is elected and qualified.

Section 2.11 Chairman of the Commission

The commission shall have a chairman who shall be elected by the members of the commission from among their own number for a term established by resolution. The chairman of the commission shall be its presiding officer and shall vote as other commissioners. Each county commissioner must serve as chairman for at least two years of their six year term.

Section 2.12 Powers and Duties

All powers of the County shall be vested in the county commission except as otherwise provided by law or this Charter, and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the County by law.

Section 2.13 Rules of Procedure

The commission shall establish its rules of procedure and time and place of meetings by resolution. There shall be a minimum of one commission meeting of record each month that is properly noticed and with a published agenda. There shall be a minimum of one meeting per quarter conducted in the evening after standard office hours.

Section 2.14 Legislative Action

The adoption of any resolution or ordinance by the commission shall require the affirmative vote of not less than (2) two commission members.

Section 2.15 Compensation

The compensation of commission members shall be set by resolution of the commission.

ARTICLE III
EXECUTIVE BRANCH

Section 3.01 Executive and Administrative Functions

The chief executive and chief administrative powers and functions of Broadwater County government shall be vested in the three members of the county commission.

Section 3.02 Powers and Duties

The board of county commissioners shall:

1. enforce laws, this Charter, ordinances, and resolutions and carry out policies established by the commission;
2. perform the duties required by law, Charter, ordinance, or resolution;
3. administer the affairs of Broadwater County government;
4. direct, supervise, and administer all departments, agencies, and offices of the Broadwater County government except as otherwise provided by law, ordinance or this Charter;
5. prepare a commission meeting agenda;
6. execute bonds, notes, contracts, and written obligations of the county;
7. prepare, adopt and administer the county budget;
8. appoint all members of boards and committees;
9. appoint and remove all department heads that are not elected, and appoint and remove all other employees not serving under elected department heads;
10. exercise direct control and supervision of departments not headed by elected officials or boards.

ARTICLE IV
DEPARTMENT STRUCTURE

Section 4.01 Elected Department Heads - County Officers

The following county officers, who may be called elected department heads, who shall have the powers and duties prescribed by law, shall be elected:

1. County Attorney/Public Administrator
2. Sheriff/Coroner
3. Clerk and Recorder/Treasurer/Superintendent of Schools/Assessor
4. Clerk of District Court

Section 4.02 Qualifications for Office

1. Every resident of Broadwater County who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution, is eligible for election to the office of an elected department head, enumerated in Section 4.01 above, except for the positions of county attorney and county superintendent of schools.

2. Qualifications for the offices of county attorney and county superintendent of schools shall be those prescribed by law.

Section 4.03 Term of Office

Elected department heads shall be elected for a four (4) year term of office.

Section 4.04 Election

Elected department heads shall be nominated and elected at large on a non- partisan basis.

Section 4.04 Vacancy in Office

The office of an elected department head becomes vacant as prescribed by law.

Section 4.06 Removal from Office

An elected department head may be removed from office by a finding, adopted by the affirmative vote of two (2) commissioners, that his or her office has become vacant as prescribed by law or by the recall of the elected department head by the electors of Broadwater County, as prescribed by law.

Section 4.07 Filling Vacancy of Elected Department Head

When a vacancy occurs in the office of an elected department head, the position shall be considered open and subject to nomination and election at the next general county election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the commission shall appoint, by the affirmative vote of two (2) commission members, a person possessing the qualifications for office required by law and this Charter within 60 days of the vacancy to hold the office until the successor is elected and qualified.

Section 4.08 Consolidation of Offices

The commission shall have the authority in its discretion to consolidate or deconsolidate any two or more offices included in Section 4.01 above and combine the powers and duties of the consolidated offices and concurrent with terms of office.

Section 4.09 Organization of Other Departments

The organization of all other county departments shall be prescribed by ordinance.

Section 4.10 Compensation

The compensation of department heads shall be set by resolution of the commission.

ARTICLE V
JUDICIAL BRANCH

Section 5.01 County Courts

There shall be such county courts as prescribed by law.

ARTICLE VI
GENERAL PROVISIONS

Section 6.01 Amendment of Charter

This Charter may be amended only by the voters of Broadwater County, as prescribed by law.

Section 6.02 Effective Date

This Charter shall become effective on July 1, 2007

Section 6.03 Oath of Office

Before assuming the duties of office, all elected county officials shall take and subscribe to the oath of office as prescribed in Article III, Section 3 of the Constitution of the State of Montana.

Section 6.04 Right of Initiative and Referendum

The citizens of Broadwater County retain the right of initiative and referendum as provided by law and the Constitution of Montana.

Section 6.05 Recall

The elected officers of county government may be recalled by the qualified electors of Broadwater County as provided by law. No person may be recalled for performing a mandatory duty of the office he or she holds or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct.

Section 6.06 Severability

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE VII
STRATEGIC PLAN FOR BROADWATER COUNTY

Sec. 7.01 STRATEGIC PLAN

A Strategic Plan will facilitate the future operation and efficiency of Broadwater County and add direction and stability with foresightedness. A Strategic Plan shall be developed and implemented for the people and by the people of Broadwater County and reviewed every five years.

Sec. 7.02 COMPONENT PLANS

A Strategic Plan would include all existing and potential plans such as the Growth Plan, Natural Resource Plan, Capital Improvements Plan and Fire Plan but not limited to these plans. This plan would be an all encompassing plan. The Growth Plan, required by the State, is not to be superseded by the Strategic Plan but shall be enhanced by the Strategic Plan.

ARTICLE VIII
TRANSITION PROVISIONS

Section 8.01 General Transition

Transition to this charter form of government shall be as prescribed by law. The Broadwater County Study Commission shall provide for such transition with an advisory plan consistent with law. Article VIII and its transition provisions, shall not be published as part of the Charter after July 1, 2008.

Section 8.02 Continuation in Office

No county employee currently holding a county office will lose employment solely because of the adoption of this Charter. Elected officials holding office at the time this Charter is adopted may continue in office until the end of the term for which they were elected.

Section 8.03 Review of Existing Ordinances

All county ordinances, resolutions and rules of Broadwater County shall remain in effect until reviewed, revised or repealed by the county commission. The county commission shall review and, where necessary, revise or repeal all county ordinances or resolutions to provide for compliance and consistency with this Charter and state law no later than January 1, 2008.

Section 8.04 IMPLEMENTATION OF STRATEGIC PLAN

The County Commissioners will establish a Strategic Plan Commission. This commission should consist of at least five members but not limited to five. At least one member shall be a county commissioner and/or appointed assistant. A Strategic Plan shall be developed and recommended by the Strategic Plan Commission and shall be adopted and implemented by the County Commissioners by June 30, 2008.

We, the Study Commission of Broadwater County hereby Certify that this is the Official Charter for Broadwater County Approved by the Study Commissioners.

In testimony whereof we set our hands.

Local Government Study Commissioners

Sec. 3.03 County Administrator

The county administrator shall:

1. be empowered by the county commissioners;
2. abide by the same laws, Charter, ordinances, resolutions, and policies as the county commissioners;
3. provide day–to–day operations and communications with staff, volunteer groups, boards, and citizens;
4. attend weekend, night events and meetings, when possible and needed, to provide assistance to the local government and the public;
5. research and complete grants that will benefit Broadwater County;
6. assist as needed in budget issues;
7. provide commissioners with additional issues and concerns of staff and citizens;
8. be liaison between county commissioners and citizens and officials;
9. research new and proposed projects and provide information and briefs to commissioners, citizens and staff;
10. help with excessive workload of staff and officials;
11. conduct monthly staff meetings with all department heads and other elected officials;
12. receive all other duties as assigned.

Sec. 3.04 Qualifications for County Administrator

The County Administrator shall:

1. demonstrate proficiency in administration, management, finance; or a sufficient number of years of experience in these fields;
2. have excellent communication, human resource skills;
3. have or be willing to develop grant writing skills;
4. have a strong sense of community;
5. provide a resume.

Sec. 3.05 Appointment of County Administrator

1. This position shall be appointed by the county commissioners after being advertised for no less than four weeks.
2. Appointment is the sole responsibility of the county commissioners but the interview process may be commissioned to an objective group of citizens for preliminary review and recommendation.
3. Base salary with benefits shall be established pursuant to other county staff.

OFFICIAL BALLOT NO._____

Broadwater County Study Commission official ballot for the November 7, 2006 General Election.

Broadwater County citizens have asked the Study Commission to submit to the voters a Charter form of government with "self-governing powers" which allows the county to react quickly to changing conditions. The Charter provides for clarification of responsibilities and duties of elected officials and staff.

This charter can only be changed by a vote of the citizens.

PLEASE VOTE ON BOTH ISSUES.

1.

☐ FOR Adopting a charter for Broadwater County with self governing powers

☐ FOR the existing form of government.

2.

Sub-option to be included in the new form of government, if it is adopted.

☐ FOR requiring the Broadwater County Commissioners to appoint a County Administrator.

☐ AGAINST requiring the Broadwater County Commissioners to appoint a County Administrator.

The Study Commission has agreed to continue their elected positions for the transition into the county charter with county citizens and staff involvement.

We, the Study Commission of Broadwater County, do hereby certify that this is the official ballot approved by the Study Commissioners.

ATTEST: _____
The Clerk and Recorder for the
County of Broadwater

In Testimony whereof, we set our hands

_____

_____

_____
Local Government Study Commissioners

PRO's for a County Charter:

- Mandate a strategic plan be prepared for the county which consolidates all plans in one place for public access.
- Rotate Commissioners Chairman that requires each commissioner a two-year chairmanship.
- Create a stronger communication and contacts to our local government for county employees and citizens through the adoption of quarterly evening meetings.
- Election by districts and non-partisan elections will be maintained.
- Will identify authority, accountability, policy, and responsibility of county officials and equipment.

CON's for a County Charter:

- The county charter cannot alter statutes expressly prohibited by the State Legislature.

OFFICIAL BALLOT NO.____

Broadwater County Study Commission official ballot for the November 7, 2006 General Election.

If the proposed charter form of government is not approved by the voters, the existing commission form of government shall be amended to require the Board of County Commissioners to appoint an administrative assistant to be named "County Administrator" to assist them in the supervision and operation of the local government.

☐ FOR the adoption of the amendment to the existing commission form of government to appoint an administrative assistant. "County Administrator"

☐ AGAINST the adoption of the amendment to the existing commission form of government to appoint an administrative assistant. "County Administrator"

We, the Study Commission of Broadwater County, do hereby certify that this is the official ballot approved by the Study Commissioners.

ATTEST: _____
The Clerk and Recorder for the
County of Broadwater

In Testimony whereof, we set our hands

_____

_____

_____

Local Government Study Commissioners

PRO's for a County Administrator:

- Provides day-to-day operations and communications with staff, volunteer groups, boards, and citizens.
- Attend weekend, night events and meetings to provide assistance to local government.
- Completes grants for additional money to Broadwater County Budget.
- Provides commissioners with additional issues and concerns of staff and citizens.
- Provides liaison between county commissioners and citizens and officials.
- Scopes new proposed projects and provides information and briefs to commissioners, citizens, and staff.
- Removes workload from other staff and officials.
- Conducts monthly staff meetings with all department heads and other elected officials.
- Ultimate decisions will still be made by County Commissioners.

CON's for a County Administrator:

- $35,000 would be needed to finance this position from grants or county budget.
- Removes workload from other staff and officials.

County Administrator

The county administrator shall:

1. be empowered by the county commissioners;
2. abide by the same laws, Charter, ordinances, resolutions, and policies as the county commissioners;
3. provide day–to–day operations and communications with staff, volunteer groups, boards, and citizens;
4. attend weekend, night events and meetings, when possible and needed, to provide assistance to the local government and the public;
5. research and complete grants that will benefit Broadwater County;
6. assist as needed in budget issues;
7. provide commissioners with additional issues and concerns of staff and citizens;
8. be liaison between county commissioners and citizens and officials;
9. research new and proposed projects and provide information and briefs to commissioners, citizens and staff;
10. help with excessive workload of staff and officials;
11. conduct monthly staff meetings with all department heads and other elected officials;
12. receive all other duties as assigned.

Qualifications for County Administrator

The County Administrator shall:

1. demonstrate proficiency in administration, management, finance; or a sufficient number of years of experience in these fields;
2. have excellent communication, human resource skills;
3. have or be willing to develop grant writing skills;
4. have a strong sense of community;
5. provide a resume.

Appointment of County Administrator

1. This position shall be appointed by the county commissioners after being advertised for no less than four weeks.
2. Appointment is the sole responsibility of the county commissioners but the interview process may be commissioned to an objective group of citizens for preliminary review and recommendation.
3. Base salary with benefits shall be established pursuant to other county staff.

MONTANA
DEPARTMENT OF ADMINISTRATION

Local Government Services Bureau-Systems Program
301 South Park Avenue Room 340
PO Box 200547
Helena, MT 59620-0547

Phone: (406) 841-2909
FAX: (406) 841-2910
TDD: (406) 444-1421

April 25, 2005

STATE DOCUMENTS COLLECTION
MAR 1 2006
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

Montana State Library
1515 E Sixth Avenue
Helena, MT 59620-1800

RE: Local Government Study Commission Reports

As required in 7-3-187, MCA, we are required to forward to the State Library a copy of the final reports of local government study commissions that we receive in our office. Enclosed is a copy of the Town of Brockton's 2004 Local Government Study Commissions report for your files.

Sincerely,

MARLENE A. HUGHES
Program Specialist
Local Government Services Bureau/Systems
841-2900

Enclosure

Contact: James Kammerer – 444-5432
State Library

Date: 2/24/2005

To: Brockton City Council

From: Study Commission Members

City council members, after careful consideration, the Study Commission members have deemed that the form of government for the Town of Brockton remain as it presently is, the Mayor/Council Form.

The Study Commission has met and discussed this matter and it is their recommendation at this time that there is no need for any changes in the present governmental system.

Thank you,

Study Commission Members:
Leonard Crowbelt
Adrian "Chuck" Spotted Bird
Ben Johnson

3
352.0786
L24 Lg3c

June 11, 1996

Department of Commerce
Local Government Services Bureau
P.O. Box 200501
Helena, MT 59620-0501

RECEIVED
JUL 1 1996
COMM.
LOCAL GOVERNMENT
SERVICES BUREAU

To Whom It May Concern:

Enclosed please find some changes to be added to the final report of the Butte-Silver Bow Local Study Commission. First section 3, "Certificate Establishing the amended Charter for the Consolidated Government of Butte-Silver Bow is to be replaced in its entirety. Several changes including the title have been made. Second, page 9 of section 7 needs to be replaced. The section is entitled "Comparison and Explanation of proposed Charter Revisions."

If you have any questions please contact me at 723-8262 ext. 218.

Sincerely,

Robert A. Farren

Robert A. Farren
Study Commission Coordinator

STATE DOCUMENTS COLLECTION
OCT 0 1 1996
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

CERTIFICATE

ESTABLISHING THE AMENDED CHARTER

FOR THE

CONSOLIDATED GOVERNMENT OF BUTTE-SILVER BOW

CHARTER

PREAMBLE

WE, THE PEOPLE of the City and County of Butte-Silver Bow, State of Montana, in accordance with Article XI, Section 5 of the Montana Constitution and the laws of the State of Montana, recognizing the unique characteristics of our community and in order to improve the quality of life for these and future generations, do adopt this Charter of the City and County of Butte-Silver Bow, State of Montana.

ARTICLE I

NAME AND BOUNDARIES

SECTION 1.01 - NAME

The consolidated local government will be known by name as "the City and County of Butte-Silver Bow, Montana, a municipal corporation and political subdivision of the State of Montana" and may be referred to as the City-County or Butte-Silver Bow City-County.

SECTION 1.02 - JURISDICTION

(a) As a political subdivision of the state, the consolidated unit of local government shall have the status of a county and an incorporated municipality for all purposes and shall replace and be the successor of Silver Bow County and the City of Butte.

(b) COUNTY POWERS

The consolidated local government shall have and may exercise all powers that are conferred on counties by Montana law throughout the territorial limits of the consolidated City and County.

(c) MUNICIPAL POWERS

The consolidated local government shall have and may exercise all municipal powers that

are conferred on cities by Montana law; provided, however, that the consolidated local government may not exercise municipal powers within the Town of Walkerville, Montana without the consent of the Town of Walkerville.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01 - POWERS OF THE GOVERNMENT

The City-County shall have self-government powers as provided by Article XI, Sections 5 and 6 of the Montana Constitution and Part 1 of Chapter 1 of Title 7 of the Montana Code Annotated and may exercise any power not prohibited by the constitution, law, or this Charter. These powers include but are not limited to the powers granted to general power governments.

SECTION 2.02 - LIMITATIONS

(a) Limitations on self-government powers shall be as set forth in Part 1 of Chapter 1 of Title 7 of the Montana Code Annotated.

(b) In addition, the City-County shall not authorize a local sales or income tax until it is approved by a vote of the people.

SECTION 2.03 - CHARTER SUPREMACY

As provided by Article XI, Section 5 of the Constitution of the State of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

SECTION 2.04 - INTERPRETATION OF POWERS

The powers and authority of this self-government unit shall be liberally construed. Every reasonable doubt as to the existence of this government's power shall be resolved in favor of the existence of that power or authority.

SECTION 2.05 - OATH OF OFFICE

All City-County elected and appointed officers shall take and subscribe the following oath or affirmation, before they enter upon the duties of their offices:

> "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, the Constitution of the State of Montana, and the Charter of the City-County of Butte-Silver Bow, and that I will discharge the

duties of my office with fidelity (so help me God)."

ARTICLE III

LEGISLATIVE POWERS

SECTION 3.01 - POWERS AND STRUCTURE

The legislative power of the City-County is vested in a Council of Commissioners and may be exercised only by ordinance or resolution.

SECTION 3.02 - ORGANIZATION

Except as otherwise provided by this Charter, the composition, qualification, elections, terms, vacancies, forfeiture, removal and compensation of the members of the council of commissioners shall be as specified by the following provisions:

(a) COMPOSITION

There shall be a Council of Commissioners of the City-County composed of twelve (12) members, at least six (6) of whom shall be elected every two (2) years.

(b) QUALIFICATION

A candidate for the Council of Commissioners shall be a qualified elector and resident of the City-County for at least one (1) year preceding the date the candidate files a nominating petition and must be a resident of the district for six (6) months. No member of the Council of Commissioners shall hold any other elective public office or be employed by the City-County. A member of the Council of Commissioners must maintain residency in the district during the entire term.

(c) ELECTION

As provided in Article IX of this Charter, all twelve (12) members of the Council of Commissioners shall be nominated and elected by district.

(d) TERMS

Members of the Council of Commissioners shall be elected for staggered terms of four (4) years.

(e) VACANCIES

1. A vacancy in the Council of Commissioners shall exist upon death, resignation or removal from office in any manner authorized by law, or the forfeiture of office by a member.

2. In the event a vacancy exists in any of the elected council seats, the Council of Commissioners shall appoint within sixty (60) days a qualified successor to the member whose seat is vacant. Such appointee shall be a qualified elector and resident in the district where the vacancy occurred for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill the remainder of the original term.

(f) FORFEITURE

A member of the Council of Commissioners shall forfeit the office upon moving from the district, if the election or appointment is declared invalid, or upon conviction of theft, bribery, perjury, official misconduct or any felony.

(g) REMOVAL

The Council of Commissioners shall judge the election and qualifications of its members and may censure a member for good cause by a two-thirds (2/3) vote of all its members.

(h) COMPENSATION

The Council of Commissioners shall set by ordinance the annual salary of its members.

SECTION 3.03 - POWERS AND DUTIES OF THE COUNCIL OF COMMISSIONERS

The Council of Commissioners shall be the legislative and policy determining body of the City-County. Except as otherwise provided by this Charter, the Council of Commissioners shall have all legislative powers and duties conferred on counties and cities which include but are not limited to, the power and duty:

(a) to adopt ordinances and resolutions;

(b) to establish and prescribe the functions of departments, offices or agencies by ordinance or resolution in addition to those created by this Charter;

(c) to employ an attorney for purposes which the Council of Commissioners deems necessary;

(d) to provide for an independent audit of the finances of the local government;

(e) to authorize community councils to advise the Council of Commissioners;

(f) to adopt an administrative code to establish duties consistent with law and to establish and regulate administrative procedures of appointed and elected officers;

(g) to discharge all legislative duties required by state law for boards of county commissioners in county governments and of city councils in city governments;

(h) to adopt by ordinance either county or municipal provisions as set forth in state law for finance, accounting, budget, elections, issuance of bonds, creation of special districts, levying of taxes, planning and zoning, and provision of services. The Council shall provide that all functions mandated upon either cities or counties shall be complied with.

(i) to approve the budget; however, the Council of Commissioners shall not levy in excess of the maximum number of mills provided by state law for the operation of unified local governments with general government powers. Should an increase in mill levies greater than the maximum number provided by state law be deemed necessary, said increase must be submitted to, and approved by a majority of the electorate voting on the question.

(j) to eliminate a local office or department by ordinance if state law eliminates such local office or department or if state law changes the name of a local office or department, the Council of Commissioners may change the name appropriately by ordinance, all without the necessity of amending this Charter.

(k) to cooperate and enter into agreements with other governmental units and agencies.

SECTION 3.04 - RESTRICTIONS ON THE COUNCIL OF COMMISSIONERS

Except for the purpose of inquiry or investigation under this Charter or the Administrative Code, the Council of Commissioners or its members shall deal with local government employees who are subject to the direction and supervision of any elected or appointed officer, solely through the appropriate elected or appointed officer and neither the Council of Commissioners nor its members may give orders to any such employee, either publicly or privately.

SECTION 3.05 - COUNCIL OF COMMISSIONERS PROCEDURE, PUBLIC PARTICIPATION

(a) The legislative procedure of the Council of Commissioners shall be as prescribed by state law.

(b) The Council of Commissioners shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings by the Clerk and Recorder.

(c) The Council of Commissioners shall have a chair and a vice-chair who shall be elected by the members of the Council of Commissioners from their own number for a term established by ordinance.

(d) The presiding officer for all regular and special meetings of the Council of Commissioners shall be the Chief Executive who shall decide all tie votes of the Council of Commissioners but shall have no other vote.

(e) The Council of Commissioners shall meet at least twice monthly and all meetings shall be open to the public except in such circumstances as are prescribed in state law.

(f) All documents and records of the Council of Commissioners shall be public records and shall be made available for examining or copying.

ARTICLE IV

CHIEF EXECUTIVE

SECTION 4.01

(a) QUALIFICATIONS, ELECTIONS

The Chief Executive, who shall be a qualified elector and resident of the City-County for at least one (1) year before filing a nominating petition, shall be nominated and elected at-large by the qualified electors of the City-County. The Chief Executive shall not hold any other elective public office or be employed by anyone other than the City-County. The Chief Executive must maintain residency within the City-County during the entire term.

(b) TERM

The Chief Executive shall be elected for a term of four (4) years.

(c) VACANCIES

1. A vacancy in the office of Chief Executive shall exist upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in the office of Chief Executive, the Council of Commissioners shall appoint within sixty (60) days a qualified successor to the person who vacated the office. Such appointee shall be a qualified elector and resident within the City-County for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill

the remainder of the original term. The Chair of the Council of Commissioners shall serve as acting Chief Executive until the vacancy is filled.

(d) FORFEITURE

The office of Chief Executive shall be deemed vacant or forfeit for the same reasons that a council seat shall be deemed vacant or forfeited as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

The Chief Executive shall be subject to removal in accordance with State law.

(f) COMPENSATION

The salary of the Chief Executive shall be established by an ordinance enacted by the Council of Commissioners.

SECTION 4.02 - POWERS AND DUTIES OF THE CHIEF EXECUTIVE

(a) The executive and administrative power of the City-County is vested in the Chief Executive.

(b) The Chief Executive shall:

1. enforce ordinances, resolutions and laws;
2. perform duties required by law, ordinance, resolution and this Charter;
3. administer affairs of the local government;
4. carry out policies established by the Council of Commissioners;
5. recommend measures to the Council of Commissioners;
6. report to the Council of Commissioners and the public on the affairs of the local government;
7. execute bonds, notes, contracts and written obligations of the government, subject to the approval of the Council of Commissioners;
8. report to the Council of Commissioners as the Council may require;
9. attend meetings of the Council of Commissioners and may take part in discussion;

10. execute the budget adopted by the Council of Commissioners;

11. appoint, with the advice and consent of the Council of Commissioners, all members of boards, commissions and authorities; except, the Chief Executive may appoint without the advice and consent of the Council of Commissioners temporary advisory committees established by the Chief Executive;

12. prepare and provide to the Council of Commissioners and the public an annual report setting forth the activities and accomplishments of the local government;

13. prepare and provide to the Council of Commissioners and the public interim and annual financial information, reported in a manner that presents fairly the financial position and results of operations of the City-County.

(c) The Chief Executive may appoint one administrative aide, qualified by training or experience, to assist in the supervision and operation of the local government; however, this section shall not affect the appointment of department heads which shall be done pursuant to Section 4.02 (d) of this Charter. Such administrative aide shall be answerable solely to the Chief Executive.

(d) The Chief Executive shall appoint with the advice and consent of the Council of Commissioners all non-elected department heads who shall serve at the pleasure of the Chief Executive. The Chief Executive shall have the power to hire and fire all other employees of the local government with the exception of those employees hired by other elected officers and those who have gained tenure as defined by statute or ordinance; however, the Chief Executive may discharge tenured employees for cause as provided in state law.

(e) The Chief Executive may veto ordinances and resolutions subject to override by a two-thirds (2/3) vote of the whole Council of Commissioners.

(f) The Chief Executive shall prepare the budget in consultation with elected and appointed department heads and submit it to the Council of Commissioners for adoption.

(g) The Chief Executive shall exercise control and supervision of all appointed departments and boards to the degree authorized by ordinance of the Council of Commissioners.

(h) It shall be the duty and responsibility of the Chief Executive to require the faithful execution of this Charter, ordinances, resolutions and laws by all elected and appointed officers.

(i) The Chief Executive shall be responsible for coordinating policies of the Council of Commissioners with all elected and appointed department heads.

ARTICLE V

EXECUTIVE BRANCH

SECTION 5.01 - EXECUTIVE OFFICERS

In addition to the Chief Executive, the executive branch includes the following officers:

(a) County Attorney
(b) Clerk and Recorder
(c) Clerk of the District Court
(d) Superintendent of Schools
(e) Sheriff
(f) Assessor
(g) Coroner
(h) Public Administrator
(i) Auditor
(j) Treasurer

Each of the foregoing officers shall be nominated and elected at-large by the qualified electors of the City-County.

SECTION 5.02 - ELECTION, VACANCIES, COMPENSATION PROVISIONS

(a) QUALIFICATION, ELECTIONS

1. A candidate for any of the foregoing offices shall be a qualified elector and resident of the City-County for at least one (1) year prior to filing a nominating petition.

2. In addition to the foregoing qualifications, a candidate shall have all education, training and experience required by state law for the respective office.

3. No person holding any of the above offices shall hold any other elective public office.

4. Each elected officer must maintain residency within the City-County during the entire term.

(b) TERM

The term for each of said offices shall be four (4) years.

(c) VACANCIES

1. A vacancy in any of said offices shall exist upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

2. In the event a vacancy exists in any of said offices, the Council of Commissioners shall appoint within sixty (60) days a qualified successor to the person who vacated the office. Such appointee shall be a qualified elector and resident within the City-County for at least one year prior to applying and shall serve until the next general election at which time a person shall be elected to fill the remainder of the original term.

3. The Council of Commissioners shall appoint a person to serve as the acting officer until the vacancy is filled.

(d) FORFEITURE

Any of said offices shall be deemed vacant or forfeit for the same reason that a council seat shall be deemed vacant or forfeit as prescribed in Section 3.02 (f) of this Charter.

(e) REMOVAL

Each elected officer shall be subject to removal in accordance with State law.

(f) COMPENSATION

Each of said officers shall receive salaries provided by an ordinance enacted by the Council of Commissioners.

SECTION 5.03 - APPOINTMENT OF DEPUTIES

Each elected officer entitled by ordinance to appoint a deputy or deputies shall appoint such deputy or deputies.

SECTION 5.04 - POWERS AND DUTIES OF ELECTED OFFICERS

The County Attorney shall be the chief legal officer of the local government and along with the other officers enumerated in Section 5.01 shall have the power and duties provided by this Charter, law, ordinance or resolution.

SECTION 5.05 - LAW ENFORCEMENT DEPARTMENT

The Sheriff shall be the chief law enforcement administrative officer of the government and shall have the duties and powers provided by this Charter, law, ordinance or resolution subject to the

following provisions:

(a) There shall be a Law Enforcement Department under the control and supervision of the Sheriff.

(b) All appointments to the Law Enforcement Department shall be made pursuant to the Municipal Police Law of the state, except:

1. That the Sheriff shall have the powers therein given to the Mayor in a mayor-council form of municipal government, the Council of Commissioners shall have the powers of the city council, and the Clerk and Recorder shall have the powers of the city clerk, and;

2. Members of the department may be candidates for any elected office and may participate in political activities notwithstanding the provisions of the Municipal Police Law of the state.

(c) The Council of Commissioners shall establish by ordinance a Law Enforcement Commission consisting of five (5) members which shall have the powers and perform the duties required of police commissions by the Municipal Police Law and such other duties as the ordinance may provide.

(d) The Sheriff may appoint an Undersheriff who shall be a person, qualified by training and experience, to assist in supervision and operation of the department. Such Undersheriff shall be answerable to the Sheriff and shall not be subject to the approval of the Law Enforcement Commission or the Council of Commissioners. Such appointee shall acquire no vested rights as a confirmed officer in the Law Enforcement Department; provided, however, that if the appointee was a confirmed officer in the department at the time of appointment as Undersheriff, those rights shall be protected and retained. If such appointee was a confirmed officer in the department prior to appointment as Undersheriff and not continued in such position by the Sheriff, the appointee shall revert to the former rank held within the department. All other positions within the department shall be established by such ordinances as the Council of Commissioners shall adopt.

ARTICLE VI

JUDICIARY

SECTION 6.01 - JUSTICE COURT

The Council of Commissioners shall establish Justice Courts as provided by state law. Justices of the peace shall be elected as provided by state law and shall receive a salary fixed by ordinance.

SECTION 6.02 - CITY COURT

(a) A City Court shall have the jurisdiction provided by state law throughout the jurisdictional area of the City-County excluding that area within the territorial limits of the Town of Walkerville. If the Town of Walkerville requests the City-County to enforce specific ordinances within Walkerville, then the City Court shall have jurisdiction within the Town of Walkerville for such purposes.

(b) The City Judge shall be elected in the manner and for the term provided by state law and shall receive a salary fixed by ordinance.

(c) The City-County may establish such other courts of inferior jurisdiction as may be permitted by law.

ARTICLE VII

ADMINISTRATIVE DEPARTMENTS

SECTION 7.01 - GENERAL

The powers and duties of the City-County shall be distributed among such departments, agencies and offices as are established by this Charter or may be established thereunder by ordinance of the Council of Commissioners in order to execute and enforce policy as is determined by that body and to carry out obligations imposed on the City-County by state law; among such departments shall be:

SECTION 7.02 - PUBLIC WORKS DEPARTMENT

(a) There shall be a Public Works Department which shall be charged with the responsibility and administration of engineering: streets, roads and other public right-of-way; water and sewer; solid waste collection and disposal; parks and recreation; and maintenance and operation of related equipment.

(b) The Chief Executive shall appoint, with the consent of the Council of Commissioners, a Public Works Director qualified by training or experience. Such director shall serve at the pleasure of the Chief Executive.

(c) The Council of Commissioners may establish by ordinance additional responsibilities for the Public Works Department.

SECTION 7.03 - FIRE DEPARTMENT

(a) There shall be a Fire Department which shall be composed of the paid Fire Department and Volunteer Fire Departments in the City-County.

(b) Except as otherwise provided by this Charter or until changed by ordinance, the organization, qualifications and appointment of officers and members of the paid Fire Department shall be governed by the provisions of the Montana Municipal Fire Department Law, except that the Chief Executive shall have the powers and duties of a Mayor and the Council of Commissioners shall have the powers and duties of a city council as provided in said state law and the Fire Commission shall have those powers and duties as set forth in subsection 7.03(c).

(c) The Council of Commissioners shall establish by ordinance a Fire Commission consisting of five (5) members, which shall have the power and duty to:

(i) test applicants for appointment to the paid Fire Department; and

(ii) test firefighters for promotion within the paid Fire Department; and

(iii) test applicants for appointment as Director of Fire Services; and

(iv) hear, try and decide all charges brought against any member of the paid Fire Department and such other duties as the ordinance may provide.

(d) Except as otherwise provided by this Charter or until changed by ordinance, the organization of existing Volunteer Fire Departments within the City-County shall be governed by the applicable sections of state law, except that the Chief Executive shall have the executive and administrative powers and duties of the Chair of the Board of County Commissioners and the Council of Commissioners shall have the legislative powers and duties of the Board of County Commissioners as provided in said state law.

(e) The Chief Executive shall appoint an advisory committee composed of three paid firefighters selected by the members thereof, three volunteer firefighters selected by the Volunteer Fire Council, and three members of the Council of Commissioners, who shall be selected by the Council; however, no member of the Council of Commissioners appointed to this advisory committee shall currently be a firefighter. This advisory committee shall study and recommend to the Director of Fire Services ways and means of improving fire protection, suppression and related activities.

(f) The paid Fire Chief shall be the Director of Fire Services and shall be responsible for the administrative coordination and combination of the paid and Volunteer Fire Departments, fire prevention and code enforcement.

(g) 1. The Council of Commissioners shall establish by ordinance a district for fire protection services, excluding that area within the Town of Walkerville. Within this district there shall be a uniform tax levy for fire protection services.

2. In those areas within the City-County outside of the district described by ordinance

as provided above, the Council of Commissioners shall levy such taxes for fire protection as are required to pay for the services rendered, as required by law.

(h) 1. Any ordinance changing boundaries of existing fire districts or reallocating fire fighting equipment shall require an affirmative vote by two-thirds (2/3) of the whole number of the Council of Commissioners.

2. The Council of Commissioners shall hold at least one (1) public hearing as specified by the laws of Montana prior to a boundary change of any fire district. The Council of Commissioners shall cause to be published notice of such hearing as specified by the laws of Montana.

SECTION 7.04 - LAND RECORDS SYSTEM

The Council of Commissioners shall establish by ordinance a Land Records System within the office of the Clerk and Recorder.

SECTION 7.05 - FINANCE AND BUDGET SYSTEM

The Council of Commissioners shall establish by ordinance a Finance and Budget System.

SECTION 7.06 - PERSONNEL SYSTEM

(a) The Council of Commissioners shall establish a City-County personnel system which shall provide for hiring and promotion of local government employees on the basis of qualifications and merit.

(b) The personnel system shall provide for job training, vacation, sick leave, insurance and other benefits for employees; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an equitable personnel system. All of the above provisions may be set forth in the Administrative Code.

ARTICLE VIII

SERVICE AND TAXING DISTRICTS

SECTION 8.01

(a) The City-County may levy such taxes as are permitted by state law for the operation of county governments, which taxes shall be levied on all property within the territorial limits of the City-County.

(b) In addition, the City-County may levy such taxes as are permitted by state law for the operation of city governments, which taxes may be levied on all property within the City-County except the area within the territorial limits of the Town of Walkerville.

ARTICLE IX

NOMINATIONS AND ELECTIONS

SECTION 9.01 - ELECTED OFFICERS

The procedure for the nomination and election of all elected officers shall be as prescribed by state law for nonpartisan elections. These elections shall be held in conjunction with state elections.

SECTION 9.02 - COUNCIL OF COMMISSIONERS DISTRICTS

There shall be elected by district twelve (12) members of the Council of Commissioners.

SECTION 9.03 - REAPPORTIONMENT OF COUNCIL OF COMMISSIONERS DISTRICTS

(a) Council of Commissioners districts shall be of as nearly equal population as possible and shall be reapportioned within six (6) months after an official United States Census.

(b) For the purposes of this section, the six-month period shall begin within six (6) months after the Montana Legislature completes its reappointment and upon the availability of the most recent census and legislative reapportionment data.

(c) If the Council of Commissioners fails to perform the modifications required by subsection (a) of this section within the specified time, the members of the Council of Commissioners shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to those modifications.

SECTION 9.04 - REDISTRICTING

District boundaries shall be changed by ordinance, provided that such revised district's boundaries must comply with the population standards prescribed in Section 9.03 of this Charter. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the local government.

ARTICLE X

MISCELLANEOUS PROVISIONS

SECTION 10.01 - AMENDMENT OF CHARTER

This Charter may be amended only as prescribed by state law.

SECTION 10.02 - EFFECTIVE DATE

This amended Charter shall become effective on July 1, 1996 and the transition schedule set forth in Article XI shall apply.

SECTION 10.03 - SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 10.04 - INITIATIVE, REFERENDUM AND RECALL

(a) The state law shall establish the election, initiative and referendum procedures to be followed by the local government.

(b) The state law shall establish the procedure for the recall of elected officers of the local government.

SECTION 10.05 - ORDINANCES

Each ordinance, except general appropriation ordinances and ordinances for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any ordinance is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void. An ordinance may be challenged on the grounds of non-compliance with this section only within two (2) years after its effective date.

SECTION 10.06 - REGISTER OF ORDINANCES, ANNUAL PUBLICATION OF UNIFORM MUNICIPAL CODE AND ADMINISTRATIVE CODE

(a) There shall be maintained a register of ordinances in which all ordinances are entered in full after passage and approval, except when a code is adopted by reference. When a code is adopted by reference, the date and source of the code shall be entered.

(b) Appropriate ordinances shall be compiled into a uniform municipal code and published

Section 10.09 - Elected Officer's Salaries

No 10.08. Changed official to officer for consistency with state law and inserted gender-neutral language.

ARTICLE XI

TRANSITION PROVISIONS

This entire Article is new. Former Sections 11.01 through 11.07 were deleted since they referred to transitional provisions in 1976.

Section 11.01 - General Transition

New Section 11.01 provides for continuity of government, its obligations, duties, ordinances and resolutions.

Section 11.02 - Terms of Elected Office

New Section 11.02 provides that those presently elected City-County officers whose offices are abolished as separately elected offices officers by the voters on June 4, 1996 may continue in office and in the performance of their duties until January 6, 1997.

Section 11.03 - Finance and Budget System

New Section 11.03 provides that the Council of Commissioners shall establish a Finance and Budget system by December 31, 1996.

Section 11.04 - Personnel System and Employment Policy

New Section 11.04 provides that the Council of Commissioners shall establish a Personnel System and Employment Policy by December 31, 1996.

Section 11.05 - Administrative Code

New Section 11.05 provides that the Council of Commissioners shall establish an Administrative Code by December 31, 1997.

Section 11.06 - Land Records System

New Section 11.06 provides that the Council of Commissioners shall establish a Land Records System by December 31, 1998.

at least annually.

(c) The Council of Commissioners shall establish by ordinance an Administrative Code establishing regulations setting forth policies in the following areas: 1) procurement and central purchasing, 2) supervision and discipline of personnel, 3) safety, 4) capital improvements and 5) such other regulations as the Council shall determine necessary.

SECTION 10.07 - EMPLOYMENT POLICY

The City-County is committed to providing equal employment opportunity to all its employees and applicants for employment.

SECTION 10.08 - ELECTED OFFICER'S SALARIES

There shall be no reduction in the specified salary of any elected officer during the term of office.

ARTICLE XI

TRANSITION PROVISIONS

The following provisions shall remain part of this Charter until their terms have been executed. Once each year the County Attorney shall review the following provisions and certify to the Clerk and Recorder and the Secretary of State which, if any, have been executed. Any provisions so certified shall thereafter be removed from this schedule and no longer published as part of this Charter.

SECTION 11.01 - GENERAL TRANSITION

The rights and duties of all City-County bodies shall remain as if this Charter had not been adopted with the exception of such changes as are contained in this Charter. All ordinances, resolutions and regulations not contrary to, or inconsistent with, the provisions of this Charter shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to law or this Charter. The validity of all City-County bonds, debts and contracts, and of all suits, actions and rights of action, shall continue as if no change had taken place.

SECTION 11.02 - TERMS OF ELECTED OFFICE

Those elected officers of the executive branch enumerated in section 5.01 whose offices will no longer be included as a separate elected office, as determined by the voters at the June 4, 1996 election, may continue in office and in the performance of their duties until January 6, 1997, whereupon their office shall be abolished as a separate elected office.

SECTION 11.03 - FINANCE AND BUDGET SYSTEM

On or before December 31, 1996, the Council of Commissioners shall establish by ordinance a Finance and Budget System.

SECTION 11.04 - PERSONNEL SYSTEM AND EMPLOYMENT POLICY

On or before December 31, 1996, the Council of Commissioners shall establish by ordinance a Personnel System and Employment Policy.

SECTION 11.05 - ADMINISTRATIVE CODE

On or before December 31, 1997 the Council of Commissioners shall establish by ordinance an Administrative Code.

SECTION 11.06 - LAND RECORDS SYSTEM

On or before December 31, 1998 the Council of Commissioners shall establish by ordinance a Land Records System within the Clerk and Recorder's Office.

We, the Study Commission of Butte-Silver Bow, do hereby certify that this is the official amended charter of Butte-Silver Bow approved by the voters of Butte Silver-Bow at the election held on June 4, 1996.

SEAL

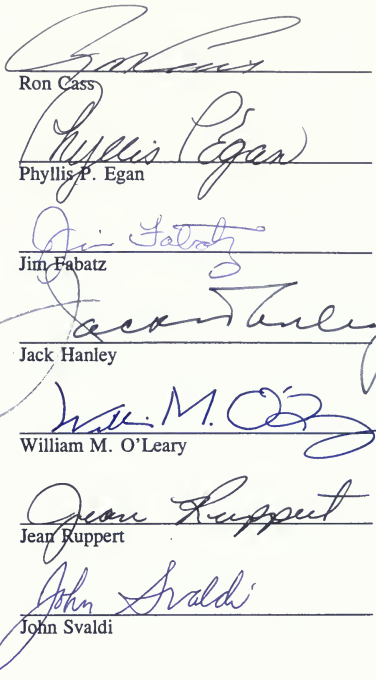
In testimony whereof, we set our hands.

Done at Butte, Montana this 25TH day of June, 1996.

Attest: Barbara Sullivan
Barbara Sullivan
Clerk and Recorder

James F Micheletti
James F. Micheletti, Chairman

Ted Bury Sr.
Ted Bury, Sr.



Ron Cass

Phyllis P. Egan

Jim Fabatz

Jack Hanley

William M. O'Leary

Jean Ruppert

John Svaldi

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THE BUTTE-SILVER BOW LOCAL GOVERNMENT STUDY COMMISSION FINAL REPORT

In June 2004, the registered voters of Butte-Silver Bow voted to review the Local Government Charter. In November, a nine member Study Commission was elected. The purpose of the Study Commission is to study present form and powers of Local Government and procedures for delivery of Local Government services and compare them with other forms available under Montana State Law. These proposals will be offered to local voters on November 7, 2006. It will be the voter's decision as to whether to accept the proposals and modify existing government.

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1515 E. 6th AVE.
HELENA, MONTANA 59620

Beginning in January 2005, the Study Commission chose to review the current government by listening to presentations and interviewing department heads and employees. It was our way of learning the many functions and intricacies of operating our local government. We asked for their recommendations for improving the delivery of services at the local level of government.

We also interviewed previous Study Commission members and got their thoughts and ideas. Many local members of our community interviewed and offered suggestions on how to improve local government.

Previous Study Commissions did an excellent job preparing Butte-Silver Bow to move forward. The community has seen many changes over the last ten years but now seems to have turned the corner and is enjoying some change and growth. Superfund is nearing its completion in the court system and should provide Butte-Silver Bow with some growth and clean up activity over the next several years.

The adopting of a Community Enrichment Ordinance should assist in cleaning up blighted areas and help to make our community more acceptable to economic development.

After nearly twenty months of review of employees, citizens and government experts, it was decided that the current form of consolidated government best serves the citizens of Butte-Silver Bow by the majority of the Study Commission Members.

The existing Charter has become obsolete in several areas and there have been problems with the appointment and dismissal portion of the Chief Executives duties. We recommend with the advice of government specialists and local labor attorneys the removal from our charter the term "at the pleasure of" from Section 4.02 (d) and replace it with appropriate language that reflects current law.

We also found other obsolete and in some cases language that does not conform to state law. We have eliminated some sections from the existing Charter, believing they are

better served by ordinance through the Council of Commissioners. For these reason, we are proposing that the voters of Butte-Silver Bow adopt these proposed amendments and changes to bring our local Charter into compliance with state law and eliminate provisions no longer needed. This new Charter will be a means to addressing future challenge and allow our community to move forward with confidence.

Copies of this final report and recommendations for proposed changes are available at the Butte-Silver Bow Clerk and Recorder's Office, 155 West Granite, Room 208; The Butte-Silver Bow Public Library, 226 W. Broadway or the Montana Tech Library, 1300 W. Park St., Butte, Montana.

Further information can be obtained by contacting the following persons:

Name	Phone
Bob Worley, Chairman	494-2047
Tony Bonney	723-5133
Ristene Hall	782-7769
Wayne Harper	782-0244
Shag Miller	494-7723
David J. Palmer	723-6821
Meg Sharp	723-9246
Cindi Shaw	723-1275
Richard Northey Tretheway	494-3447

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SERVICES BUF

LETTER TO THE CITIZENS OF BUTTE-SILVER BOW COUNTY

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To The Citizens of Butte-Silver Bow County.

The Butte-Silver Bow County Government Study Commission elected by the voters on November 2, 2004, present this final report to you, the citizens of Butte-Silver Bow County.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state". After completing these two phases of the study it is the responsibility of the study commission to submit a final report recommending no change, propose amendments to the existing form of government or offer an alternative form of government to the qualified voters.

In every phase of this review this study commission sought advice and information from as many people in the county as possible. Opinions and recommendations were solicited from all elected government officials, all government department heads, individual government employees, the news media, community organizations and individual citizens. All meetings of the study commission were open to the public. Commission members appeared before various community organizations and radio and television to explain the work of the commission and also to hear responsive viewpoints, ideas and concerns of those present in the various media audiences. Three public hearings were held.

The Commissions recommendations reflect the thought and opinions of the elected officials, department heads, public hearings, those who attended our regular meetings in addition to the independent efforts by individual members of this study commission.

In this final report, the commission members feel there is no need to change the existing form of a combined city-county government charter, which has served the citizens of Butte-Silver Bow for the past 30 years and will continue to do so. It is the best form of government available to our county under Montana law. However, to bring this charter and its language up-to-date, and to accommodate the thoughts and concerns of those previously expressed; the commission hereby offers five amendments to the Charter and two suggested additions to the duties of the Chief Executive for approval of the Butte-Silver county voters.

These amendments and additions will be placed on the ballot November 7, 2006.

Respectfully submitted,

Bob Worley, Chairman

Bob Worley, Chairman

Tony Bonney

Ristene Hall

Ristene Hall

Wayne Harper

Shag Miller

David J. Palmer

Meg Sharp

Cindi Shaw

Richard Northey Tretheway

Butte-Silver Bow Local Government Study Commission

FINDINGS OF THE BUTTE-SILVER BOW STUDY COMMISSION;

After an intensive study of almost two years, the study commission decided to recommend certain changes in the structure and power of the county government. The changes will provide an additional governmental framework to meet the changing needs of this county. The county government needs additional authority for exercising its traditional functions in the problem areas, which were identified during the course of the study by:

- research,
- discussion,
- public hearings, and
- testimony of elected officials, department heads, and individual citizens.

The Commission's findings are.

1. The need to clarify and up-date charter language from the 1996 Charter, amend Charter language to conform to recent changes in Montana state law and confirm the continuation of previously established government functions.

2. Previous Charters permitted the Chief Executive to hire and fire department heads at will. Subsequent to the 1996 Charter, a Montana law, confirmed by the Supreme Court voided the right of our Chief Executive to form his own cabinet by firing current department heads and hiring his own choices. In two cases where this occurred after a new Chief Executive took office, two Plaintiffs were awarded damages exceeding $1.000,000.00.

3. At the first two public meetings, nearly 40% of those citizens attending complained the present animal control system was not working, particularly as far as stray dogs are concerned. The animal control officers effectiveness seems greatly diminished, the shelter system has had major problems and there seems to be a lack of administrative control by the Public Works Department.

4. There is no system to establish performance goals and rate performance of the Chief Executive by the Council of Commissioners and publish the success of achieving said goals and objectives.

5. There hasn't been the publication of the county's financial status and how it relates to the annual budget for many years. The citizens of the County can only find this information by attending the public hearings on the budget, on review at the Public Library or posted in the lobby of the courthouse.

6. The Superfund rehabilitation program has been going on in Butte for more than 15 years. The County's work on this project has been handled by a loose-knit organization from representatives of various County offices and departments. There needs to be more involvement by the community and a coordinator to monitor and report on Superfund activities and funding.

7. With the decline in the county's population over the past generations and the change in Butte's infrastructure from the "hill" to the "flat", there are and have been a number of abandoned buildings, houses and vacant lots which have become eyesores and a burden

on the tax rolls. While there have been many efforts through the years, both public and private, to mitigate this situation they have not kept pace with this growing problem. The present system within the Health Department while working to some degree is not fully handling the situation.

8. The duties and job specification of the elected County Auditor has been greatly reduced through the years by previous Chief Executives. Many of the Auditor's functions have been transferred to the Office of Budget and Finance. There is still a need a need for an "inside" Auditor to monitor various government operations.

RECOMMENDATIONS;

1. Ballot amendment #1 as listed on the attached "official ballot"
2. Ballot amendment #2 listed on the attached "official ballot".
3. Ballot amendment #3 as listed on the attached "official ballot".
4. Ballot amendment #4 as listed on the attached "official ballot".
5. Ballot amendment #5 as listed on the attached "official ballot".
6. The duties of a Superfund coordinator will be included in the powers and duties of the Chief Executive as listed in Section 4.02 of the proposed Charter. This includes monitoring the funds and shall interface with a Volunteer Citizen's Advisory Board.
7. The duties of a Community Enrichment coordinator will be included in the powers and duties of the Chief Executive as listed in Section 4.02 of the proposed Charter.
8. The position of elected Auditor will be retained. However, a request will be made to the Council of Commissioners to return some of the previous functions of the Auditor back to this office.

The Study Commission strongly recommends the passage of all ballot amendments.

CERTIFICATE

ESTABLISHING THE OFFICIAL BALLOT FOR

THE BUTTE-SILVER BOW SPECIAL ELECTION

Instructions to voters: Place an "X" in the box which expresses your preference.

OFFICIAL BALLOT

BALLOT ON THE AMENDED FORM OF GOVERNMENT

1.
Vote for One.

[] FOR adoption of the amendments to the Butte-Silver Bow Charter deleting transitional language, clarifying out-of-date references and adding limited stylistic changes, and adding responsibilities to the powers and duties of the Chief Executive, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR retention of the existing Charter language.

2.
Vote for One.

[] When a vacancy exists, the Chief Executive may appoint certain designated department heads to serve in their positions on a contract basis. The terms and conditions of said contracts will be negotiated by the Chief Executive with the individual involved. These contracts require approval by the Council of Commissioners. Those department heads so designated, shall be established by ordinance. Early cancellation of all employment contracts must also be approved by the Council of Commissioners.

[] FOR retention of the existing Charter language.

3.
Vote for One.

[] FOR adoption of the amendment to the Butte-Silver Bow Charter requiring that an Animal Services department be established and maintained, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR the existing form of Animal Control.

4.

Vote for One.

FOR adoption of the amendment to the Butte-Silver Bow Charter providing that the Council of Commissioners shall evaluate annually and publish the success of the Butte-Silver Bow government in achieving goals set by the Chief Executive, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR retention of the existing Charter language.

5.
Vote for One.

[] FOR adoption of the amendment to the Butte-Silver Bow Charter requiring that a summary of the annual budget, including a comparison with the preceding year's budget and the date and time of the required public hearing, be published in a newspaper of paid, general circulation prior to budget approval by the Council of Commissioners, as proposed by the Butte-Silver Bow Local Government Study Commission.

[] FOR retention of the existing Charter language.

We, the Study Commission of Butte-Silver Bow, do hereby certify that this is the official ballot approved by the Butte-Silver Bow Local Government Study Commission.

In testimony whereof, we set our hands.

Done at Butte, Montana this 22 day of August, 2006.

Bob Worley, Chairman

Bob Worley, Chairman

Tony Bonney

Ristene Hall

Ristene Hall

Wayne Harper

Wayne Harper

Shag Miller

Shag Miller

David J. Palmer

David J. Palmer

Meg Sharp

Cindi Shaw

Richard Northey Tretheway

SEAL
ATTEST:

Clerk and Recorder